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HISTORY
OF THE
UNIVERSITY OF TEXAS.

BASED ON FACTS AND RECORDS.

FIRST EDITION.

BY J. J. LANE.

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DEDICATION.

IN CONSIDERATION OF THEIR SUBSTANTIAL
GIFTS TO THE UNIVERSITY OF TEXAS, THIS VOLUME IS
RESPECTFULLY DEDICATED TO ITS FIRST DONORS, AND
TO ALL FRIENDS OF UNIVERSITY EDUCATION.

PREFACE.

As no regular history of "The University of Texas" has been published, so that little is known outside the State as to the inception and progress of the institution, pains have been taken in this work to elaborately present the facts as to its origin, the social and political tendencies affecting its establishment, the great difficulties it has had to encounter, and its peculiar status, as the apex of public instruction, needing to be better harmonized with the State's educational system.

Nothing can do more to reconcile and adjust local differences to the general good and remove prejudices which so strangely exist against university education, or more especially its promotion by State aid, than the publication of the history of the higher establishments of learning in the different States; and one object in the publication of this volume is to contribute to that important end, in the hope it may work some advantage to the Texas University. With this view the writer has used without special reserve every important statement he could bring to bear upon the subject which was calculated to enlighten public opinion and effect favorable action. It is only in this way, and by constant presentation, that the public mind can be impressed so as to reach needed reforms in State management of the most complex, perhaps, of all public institutions—State Universities.

In many of the more important instances usual historic methods have been varied by letting those who have figured most prominently in the rather remarkable record presented speak out somewhat freely in the glow of their own language, rather than recast to condense their utterances, where their fullness served for finer tracery to make the outlines more attractive as

well as authoritative. At the same time the writer's ambition has been, not so much for display as to reproduce facts and group them together for easier reference by the public, in order to direct more liberal attention to the question of higher education in Texas, and especially to promote the welfare and success of the University as a State institution. If this is accomplished he will feel that he has rendered important service to the State as well as to the University.

J. J. L.

AUSTIN, Texas, March 17. 1891.

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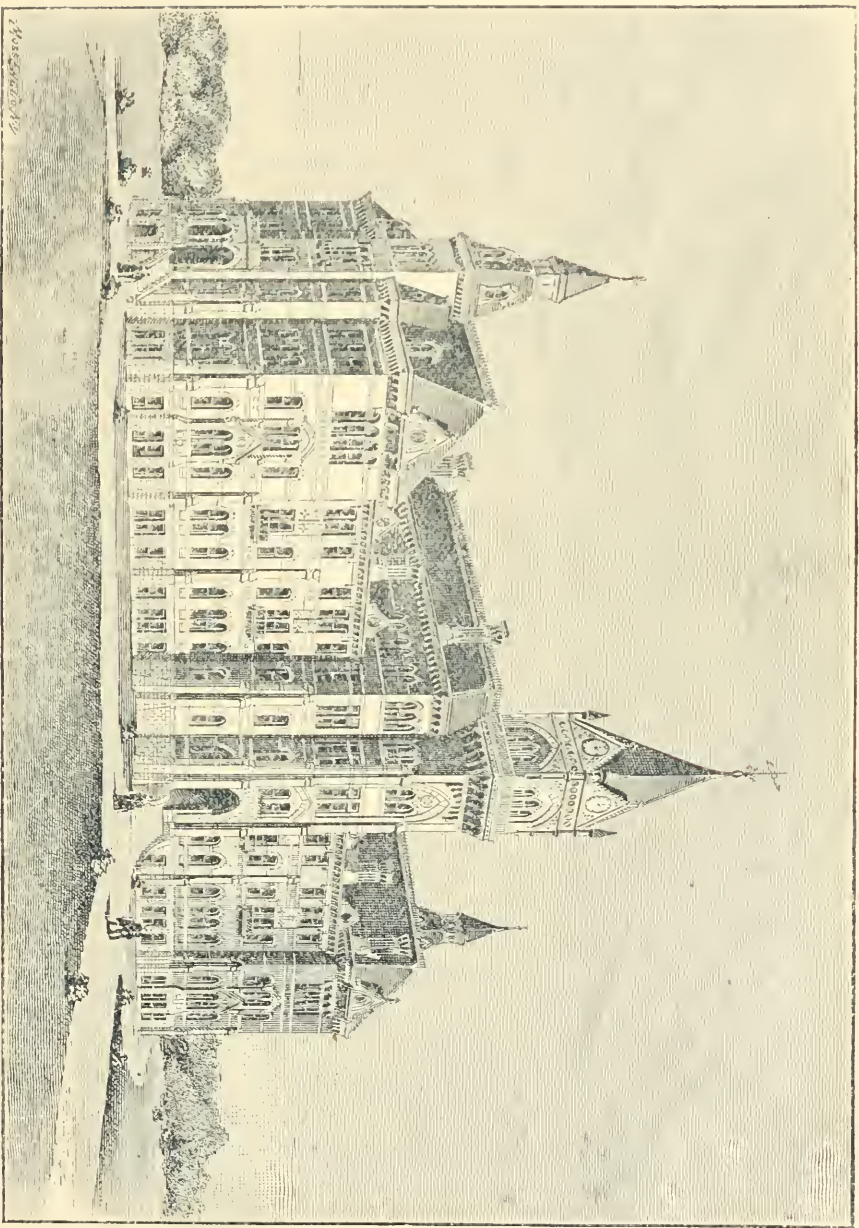
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Moscow, 1875

UNIVERSITY OF TEXAS.

THE UNIVERSITY OF TEXAS.

CHAPTER I.

ORIGIN OF THE UNIVERSITY.

Before noticing the final organization and operations of the University, a review of its history will be not only interesting, but important to a proper appreciation of such difficulties as the University of Texas, in common with other State universities, and especially on account of State supervision, has had to encounter. To this end, extracts from the law, the rulings of State officials, and the expressions of public speakers, together with criticisms of the press, will be given, with such comments as may suggest themselves to the writer, by reason of familiarity with the University's history and access to early records.

So far as relates to the substantial history of its organization, and, on account of the comparative infancy of the institution rendering it practicable, it is aimed to make the account as complete as necessary for all reference to the main facts, as well as a sufficient guide to those who may desire to search for more minute information. Nor will truth be spared, as is often done, on account of local influences, because not always agreeable, as that would be travesty, and the object is to bring out the fullest developments in the interest of history, and especially the unwritten history of the University. With this view the writer has not hesitated to use pretty freely, with proper credit, such matter as he has found already prepared, where it particularly suited for the purpose.

EARLY INTEREST IN EDUCATION.

As an evidence of the great concern early manifested in the cause of education in Texas, precedent to

the establishment of the University as a State institution and consequent part of a general system of education, it was provided as far back as March, 1827, in the "Constitution of the State of Coahuila and Texas," that "In all the towns of the State a suitable number of primary schools shall be established, wherein shall be taught reading, writing and arithmetic, the catechism of the Christian religion, a brief and simple explanation of the constitution of the State, and that of the Republic (of Mexico), the rights and duties of man in society, and whatever else may conduce to the better education of youth;" that "The seminaries most required for affording the public the means of instruction in the sciences and arts useful to the State, and wherein the constitution shall be fully explained, shall be established in suitable places, and in proportion as circumstances go on permitting;" and that "The method of teaching shall be uniform throughout the State, and with this view also, to facilitate the same, congress shall form a general plan of education and regulate, by means of statutes and laws, all that pertains to this most important subject." (Arts. 215, 216 and 217, Title VI of the Constitution.)

The constitution of the republic, adopted March 16, 1836, at Washington, Texas, made it the "duty of the congress of Texas to provide by law a general system of education as soon as circumstances permitted." Then came the act of the congress of Texas of January 14, 1839, providing for the selection of a site for a University, and an act of January 26, at the same session, requiring the president of the republic to have surveyed from the vacant domain of the republic, fifty leagues of land as an appropriation for the purpose of university education. Then followed provisions by the State of Texas itself for establishing "The University of Texas." And thus in the language of the University Regents: "The idea of a university for the promotion of the arts and sciences was no afterthought to those who founded the State of Texas. The idea of a university was part of the very organized foundation of the State itself, incorporated from the first into its very life, and vitalizing its best hopes for the future ;

so that holding fast to the University, with the same tenacity as to the common schools, is but carrying out the policy conceived with the very birth of the State."

SELECTION OF "COLLEGE HILL."

The congress of Texas passed an act, which was approved January 14, 1839, providing for the election of five commissioners to select a site for the location of the seat of government to be named the city of Austin, and for an agent to have said site purchased or condemned for the use of the State, and to have it laid off into lots and sold; and further, before the sale, "to set apart a sufficient number of the most eligible for a capitol, arsenal, magazine, university, academy, churches, common schools, hospital, penitentiary, and for all other necessary public buildings and purposes." (Acts first session, Third congress.) The beautiful eminence which was selected for the University was at the time covered with a grove of magnificent live oaks and remained unoccupied for forty years, all of which time it was known as "College Hill." It was not till the last war that it was despoiled of most of its grand forest growth by an army engineer who had several hundred of the trees cut away as obstructions in his plan of defense of the city.

PRESIDENT LAMAR'S FORESIGHT.

As early as 1836 it was provided in the constitution that "It shall be the duty of congress, as soon as circumstances will permit, to provide by law a general system of public education;" and in 1839 President Lamar, in his address to the congress of Texas, speaking of education, said: "It is a subject in which every citizen, and especially every parent, feels a deep and lively concern. It is one in which no jarring interest is involved, and no acrimonious feelings are excited, for its benefits are so universal that all parties can cordially unite in advancing it." He advocated and urged that congress provide by appropriation from the immense public domain for both elementary and higher education. His views met with a ready response in

congress, and early in 1839 the act was passed making an agrarian endowment for public education on which is based the State's provision for elementary and university or higher education. (Act of Texas congress, January 26, 1839.)

The prescience of Lamar's conviction was expressed in his argument that landed provision for so important a matter as public education should be made while the domain was ample for such purpose before the settlement of the country rendered it impracticable; and it was to the wise and patriotic foresight of the "Fathers of the Republic" that the people of Texas are now indebted for the grandest school patrimony perhaps in the world, say thirty million acres of free school domain, worth at least sixty million dollars, besides over two million acres of University lands.

Somewhat similar to Lamar's plea was that of President Gambetta, when, many years after in the French chambers, in arguing in favor of public education—and *a fortiori*, it would seem the higher such education the better, he said: "We place the interest of public instruction above all personal quarrels, and it pleases me to see that in the midst of the inevitable antagonisms of public life all good citizens are united on this point. Of all the efforts of thinkers, writers and statesmen, there is only one which is really efficacious, profound and productive, viz., the diffusion of education—that social capital, the best of all capitals, which gives every man who comes into the world the means of gaining all other capitals, and thus of securing a position without force, without violence, without civil war."

Conclusive as such arguments appear it is nevertheless strange that strong opposition to higher education, and especially "the university idea" for its promotion, seems to have been encountered in Texas as far back as in 1839, and from no less distinguished an opponent than President Houston, one of the greatest minds and foremost thinkers of the whole country, who is said to have combatted the proposition to establish a University as "a project for favoring the rich at the

expense of the poor;" * and that all along the line since for half a century, such opposition has been indirectly voiced against the University, not on account of a laudable enough and natural preference of the masses for the common schools as being nearest home to their necessities, but on account of a blind prejudice in their favor *as* against a University, as something hostile, instead of being adjunct to a perfect system of public education, or beautiful capstone to the political structure or a well-rounded system of public instruction from the broad base of the common schools to the apex of university finish. The dominance of such sentiments in public affairs as are credited to Houston and his masterly influence doubtless retarded the organization of the University for a long period. Even great men little imagine sometimes the effect of their examples, and how far their utterances may "go sounding down the corridors of time."

Not only has the University of Texas had to contend all along with popular prejudice against the "university idea" of higher education, but it had to contest such recurring influences in legislation and the State departments. Like such institutions in other States it has been the victim of capricious enactments, its necessities being too often disregarded, and in some instances its funds being imperiously diverted by the legislature and not always restored. While at times it has been munificently treated by the State, at others

* The writer can find no published declaration of Gen. Houston to this effect, but has authority for it coming down from those who profess to have been familiar with his views on the subject. Still, it is not given as absolutely historical. If Gen. Houston was really opposed to the establishment of a State University, it was possibly not so much on account of objection to university education *per se*, as a system for State adoption, as an idea that Texas was not then prepared for such an advance in educational methods. Or it may be he was opposed to establishing a University on the same ground, advanced in the time of Jefferson to Governor Nicholas of Virginia by the president of William and Mary College, who declared that he presumed the object of aid from Virginia, that is from the "literary fund," was to "inform those who must otherwise remain ignorant in the humbler but more important parts of knowledge than to make a comparatively few proficient in the sublimer parts of knowledge."

Gen. Houston's views as to a University, so far as published and given in his message while subsequently governor of the State, are cited in another part of this volume under the caption of "The University in Politics."

the State through its legislature has even denied any indebtedness to it for moneys absolutely taken for public exigencies from the University fund. Such, with other reasons, which will be referred to further along as they present themselves in the history of the institution, were great difficulties with which the University has had to contend.

AN ABNORMAL BRANCH.

The organization, years before the University got into operation, of the Agricultural and Mechanical College at Bryan, a rather abnormal because antagonistic branch of the University, on account of its being under a separate board of management, and its heavy drafts upon the University's fund, in face of the University's needs for the main establishment at Austin, made the distribution of the fund by the legislature a source of contention between the University and the College, the latter generally winning as the favorite of the farmers on account of that element's preponderating influence in legislation.

The College was provided for under the benefits of the act of congress of July 2, 1862, to which, under the State's acceptance of the provisions of the act, it owes its origin. Under this act the State received for the College one hundred and eighty thousand acres of land scrip which was sold under authority from Governor Davis by J. P. Newcomb, secretary of state, in 1871 at 87 cents an acre. The amount realized from the scrip was \$156,600, with which bonds were purchased to the amount of \$174,000. There was due in the way of accumulated and unpaid interest on these bonds February 1, 1876, \$45,280, for which payment was provided by State bonds at 6 per cent. An investment was made of \$35,000, of these bonds, so that, according to report of Col. A. J. Peeler of the board of directors, the endowment of the College then stood, January 20, 1881, as follows:

Seven per cent gold bonds, interest payable semi-annually, September 1 and March 1.....	\$174,000
Six per cent gold bonds, interest payable semi-annually, January 1 and July 1.....	35,000
Total principal.....	\$209,000
Annual interest.....	14,280

According to the effect of the general requirements of the act of congress this \$174,000 had to remain a perpetual fund for the College, except that 10 per cent of the amount might be expended by the State for lands for sites or experimental farms, and that the annual interest of the fund was to be regularly applied without diminution to the purposes mentioned in the fourth section of the act, to-wit: The "support and maintenance of at least one college where the leading object shall be, without excluding other scientific and classical studies, and including military tactics, to teach such branches of learning as are related to agriculture and the mechanic arts, in such manner as the legislatures of the States may respectively prescribe, in order to promote the liberal and practical education of the industrial classes in the several pursuits and professions of life."

By act of March 9, 1875, the State authorized the use of as much of the annual interest (\$14,280) as "might be needed to pay the directors, officers and professors of the College." None of it could be used for purchase or preservation of buildings. The College was opened for students October 4, 1876, and was further operated in 1877, under the effects of the constitution of 1876, making it a "branch of the State University."

Following the provision of the general government, the State's lavishness to the College, and largely from the University's fund, is shown by a writer in the *Austin Statesman*, who, after reviewing the points involved in the conflict of interests between the two institutions, presents the following pertinent facts and conclusions:

"According to the report of the managers of the Agricultural and Mechanical College in 1887, the income of the College for two years, from January, 1885, to January, 1887, is thus exhibited:

TWO YEARS' RECEIPTS.

January to June, 1885 :	
From Agricultural and Mechanical College.....	\$7,927 08
June, 1885, to June, 1886 :	
From Agricultural and Mechanical College.....	23,629 21
From State of Texas, general revenue.....	10 000 00
From State of Texas, University fund	5,000 00

June, 1886, to January, 1887:	
From Agricultural and Mechanical College.....	16 479 51
From State of Texas, general revenue	10,000 00
From State of Texas, University fund.....	3,151 60

Total receipts.....\$76,187 50

“Balance of cash on hand, \$7,037, which includes about \$1,850 of the appropriation from the University fund. An annual income in round figures of nearly \$40,000 for a single branch of the University.

“In the above exhibit the words ‘from Agricultural and Mechanical College,’ include, as the report explains, all money received from all sources other than the State appropriation (which appropriation is made out of the State and University fund) viz.: ‘From students, professors, officers, sale of farm products, etc.’

“These Agricultural and Mechanical College items foot up \$48,035.80 for the two years, \$24,000 in round figures for each year.

“The assured income of the College for the next year may thus be fairly estimated:

From the United States grant.....	\$14,280
From students, professors, etc.....	24,000

Total.....\$38,280
Add from United States experiment appropriation..... 15,000

Total.....\$50,280
Independent of what is expected from the Twentieth legislature
out of State revenue and University fund 15,000

Grand total.....\$65 280

“The College has, from its federal donation, a productive fund of \$209,000, and has had, as part of the \$298,787 below, appropriations amounting to \$50,000, besides \$21,000 for State students at the College, making \$71,000 taken out of the University fund. Besides this there has been diverted from the same convenient source, \$14,495 for the Prairie View colored school, which was never a branch of the University, but is claimed to be a branch of the Agricultural and Mechanical College.

Thus it will be seen the College has had from various sources:

From the United States grant	\$209 000
From the general State revenue proper, \$298,787 less \$71,000..	227,787
From the fund of the University.....	71,000
From the same fund for the colored school, controlled by the Agricultural and Mechanical College.....	14,496

Total funds controlled by the College..... \$522,283

"As, however, it is claimed for the College that it has derived no benefit from the \$21,000 used for State students, nor from \$14,496 which it controls for the colored school, still there is left the munificent balance of \$486,787, of which the College has been the sole beneficiary. Even to this amount should be added land and residences valued at \$17,912, donated to the College by Brazos county, thus swelling the subsidies and wealth of the College to the princely sum of over a half million dollars.

"The total permanent improvements of the College, per last report of the directors, amounts to \$194,662, embracing among the principal items:

One main four story brick building.....	\$100,000
One steward's hall and adjuncts.....	35,000
Five professor's residences.....	15,000
Stable and barn.....	1,500
Frame work shop	4,000
Frame farm house.....	1,000
Brick iron-working shop.....	5,000
Store room mess hall.....	2,500
Large barn.....	2,500
Sixteen brick cisterns, \$200 each.....	3,200
For fences.....	4,000

"The equipments of the College are footed at \$34,310, including \$5,030 for tools and machinery; about \$7,000 for furniture; \$7,000 for chemical apparatus; about \$4,000 for library; about \$6,000 for cattle and other stock; \$1,600 for farm implements; \$1,800 for surveying and engineering instruments.

Total estimated value of permanent College property:

Land, buildings and fences.....	\$194,662
Permanent equipment.....	34,310
Grand total.....	\$228,972

"So much for the wealth which has been bestowed upon the College. Now let us see how beggarly in the comparison have been the resources of the University. True, the University has, after being deprived of over

1,200,000 acres of its legitimate patrimony, as shown in a previous article of the *Statesman*, 2,000,000 acres of land left—something which sounds grand enough in figures, but which was much of it dry sand flats, and as a whole, under the impolicy of the land board, has been about as productive of revenue as if selected from the arid wastes of Sahara. In fact, comparatively little of it has been sold or leased under the arbitrary and stifling acts of the land board.

“Thus it will be seen that with the exception of interest on land notes and a few thousand dollars from leases of the limited quantity of lands utilized, the income of the University is confined almost exclusively to the interest on the bonds, which is an amount barely enough for its running expenses and far short of what has been shown to be the income of the College.

“It may be added that the University itself has barely had means to pay for and equip its building, even in its present partially constructed and imperfectly equipped condition. Taking the average in round figures the University has had: First session, say \$48,000; second, \$48,000; third, \$48,000; total, \$144,000, against which the College has had nearly one-half of the University’s available resources, and leaving no reserve for other branches, out of funds which should be applied for the running expenses of the University in all its departments.

“Now,” concludes the writer, “while liberality to the College is commendable, it should be at the expense of the State, and not of the University, or, what is morally the same, not out of what it has given the latter, for the State can well afford, and very properly as the College deserves, to be liberal to the College without being unjust to the University.”

Latterly, however, more liberal and equalizing action by the governing power has somewhat restored the equilibrium and produced a better state of affairs between the College and the University.

The absurdity of the anomalous relations so long existing between them is thus forcibly expressed by the University Regents:

“The college at Bryan is entitled to say that it is

the 'technical branch of the University at Austin,' but the University at Austin is not entitled to say that it has a technical branch at Bryan. In the opinion of the Regents it is time that this contradictory relationship should cease. It is both mischievous and absurd. It is absurd because it contravenes the plainest dictates of common sense. If the College at Bryan is a branch of the University, the University certainly has a branch at Bryan, and the Regents, as the governing body of the University, should control and regulate this branch. An independent board as the governing body of a dependent branch is a contradiction in terms, and therefore an absurdity. But it is something worse than an absurdity: it is an element of mischief."*

Mr. Cavitt, as president of the board of directors of the College, in his report to Governor Ireland, aims to meet this objection of the University regents, as follows:

"The wisdom of the legislature in placing the College under a separate management is fully illustrated by the modest estimate of the regents for the support of the College in case it should be entrusted to them. It is a pure question of administration, and not of art. If the College can be more successfully operated by a board responsible directly to the legislature, and more representative of its interests, then a mere question of appropriation of funds should not be allowed to interfere with its success. As now, both boards can biennially present their estimates to the legislature, and with a full knowledge of both wants and resources, the

* The recent appointment of Governor Ross as president of the College presents the further anomaly, which has existed for some years in its history, of a College with a president, which is a branch of a University without a president. Governor Ross, probably on account of this anomaly, has expressed to the writer the opinion that the University should have a president. The matter was discussed, too, at the last meeting of the regents, all of whom, except Regent Todd, seemed to favor the proposition, and the board resolved to ask the legislature for authority to appoint one or not, at their discretion.

The Texas and Virginia Universities are the only ones in the United States which do not have some such head of the institutions as a chancellor or president. Such an officer is needed for the Texas University, not so much for his literary accomplishments as for executive ability to watch and manage its material interests, develop its resources and perfect improvements, so as to keep the institution fully in line with other great progressive educational institutions of the country.

legislature will appropriate from the University fund such amount as this College may be justly entitled to."

It may be said in answer to this that there is no reason to believe that a fully reconstructed board, with control of the entire University, including the College branch, would act prejudicially to the combined interests or any interest of the University and all its branches collectively considered, according to their respective merits, if all were fully placed under their control.

As if anticipating trouble from the legislature when the University came to be established, on account of the conflicting management of the College, Governor Roberts in his message to the Seventeenth legislature made the following recommendations: "I would respectfully recommend that the board of directors of the Agricultural and Mechanical branch of the University be dispensed with, and the number of regents be enlarged so as to incorporate in the same body the directors and regents. There is no use for two boards. A positive disadvantage might often result from a want of harmony between them. With a common control by the board of regents over all of the branches, and provision of ample means to support them all and build them up gradually together according to the relative importance of each one, all strife for the advancement of one to the prejudice of the others would not be allowed to exist, and each one could have its due share of promotion according to the means at command, and as would best forward the interests of the country."

VIEWS OF LEADING MEN.

Ex-Governor Roberts, now one of the law professors of the University, Col. Ashbel Smith, first president of the regents, and Hon. A. W. Terrell, among others, have been active promoters of the Lamar policy as to higher education, while Governor Ireland, a man of vigorous intellect and strong convictions, seems to have been governed by something like the Houston idea, or at least as far as he has expressed himself, by a preference for the common schools as quite sufficient for the State to provide, and probably better for the people

under his view of the situation than keeping up the expense of both the common schools and the University. His idea more properly, perhaps, was, without really opposing the University plan, to have a more diffused system of higher education by means of "district colleges" fairly distributed as "feeders for a University," and have the University await the establishment of the colleges, before putting it into operation, and then to inaugurate it on a grand scale. State Senator Pfeuffer was noted for his advocacy of something like this policy, and for his introduction of a bill accordingly while a member of the legislature during Governor Ireland's administration, in which bill among other features he provided for "establishing one University preparatory school in each congressional district in the State under control of an auxiliary professor at a salary of \$1,500 per annum, to be appointed by the University board of regents, which schools shall be organized as high schools in harmony with the University course, and serve as feeders to the University."

The bill, however, did not pass in either branch of the legislature.

In order that no injustice be done Governor Ireland in this connection, the following extract is given from his address at the University June commencement in 1884: "A good deal has been said about an antagonism between the free schools and the University. I do not think there is any, and there should not be. The man who attempts to array the one against the other is a friend of neither. There is room for both if wisely managed. They may be likened to a shipwreck; all are afloat with one plank between them, which may with prudence carry all ashore; but if a struggle occurs for complete possession all will probably be lost. The common schools could live without the University, but the University cannot live without primary and collegiate education. The great question to be solved is: How and where are students to get their education to fit them for the University? There are a few high schools in Texas. The schools at Independence, Waco, Georgetown, and a few other places are turning out good scholars, who

may enter the University, but they are few. There might be created in each congressional district a school of high grade, placing them as near the poor young men and women as possible. These could be under the patronage of the University, or may be a free school system proper. This is a mere suggestion; it is not a pet theme of mine, but I have heard of nothing better."

Governor Ireland claimed that his policy of postponing the opening was best for the University, and that he advocated it purely in that interest, and from no spirit of hostility to the institution.

Dr. Hadra, of San Antonio, while one of the University regents, like Governor Ireland, opposed what he considered the premature opening of the University. Senator Knittel seemed to entertain about the same views as those of Senator Pfeuffer as to the College and the University.

After the defeat of the Pfeuffer bill, and at the close of the session, March 31, 1885, Senator Pfeuffer, rising to a question of privilege, addressed the senate at considerable length, and in rather remarkable vein, using the following strong language in the course of his address:

"I claim the right in these last hours of this session, when it may no longer be urged that I am in debate by an insidious move on questions for legislation, to reply to the charges that, as stated, have been made in a thousand forms—misrepresentations that each day assume new phases.

"I was made chairman of the committee of education at this session of the legislature. For some years past I have been one of the directors of the A. and M. College, located at Bryan. I have felt a profound interest in the success of that institution. This legislature had scarcely met when we heard words of ridicule addressed against the A. and M. College, and derisive sneers at its efforts, and suggestions that it be abandoned as an educational institution and be converted into an asylum. These enemies of the A. and M. College thought that it was inimical to the State University at Austin. The A. and M. College had friends. There were those amongst us who believed it was an

institution that should receive the first care of the State. We may have been of opinion that the class of our youth that the A. and M. College proposed to cultivate was as important to the State, and would, when leaving that institution, be worth as much for her prosperity as urbane scholars versed in the languages of Greece and Rome, or proficient in the soft tongues of Spain and Italy, the brilliant language of France, or the stately manliness of the language of my fatherland.

"There were some who thought that the schools where the farmer's sons were taught the nature of soils, the chemistry of crops, were as important as the schools in which metaphysical jargon is heard in wrangling from morning to night. There were some who thought that sound instruction in the history of domestic animals, a knowledge in the capacities of their different breeds, their adaptability to our climate, their diseases and remedies and best modes of rearing, their anatomical structure, and everything necessary for their successful management, was as useful as the pleasing science of entomology that may expand itself in volumes on the anatomy of the carrion beetle, or tremendous discussions unfolding the purpose the house fly or the swamp gallinipper serve as assistants in hygiene in our kitchens and around our poisonous lagoons.

"There were some of us who had these thoughts relating to the relative utility of the two classes of what is termed higher education—the one looking to grain producers on our farms and ranches, the other as supplying material from which the bench and the bar, the pulpit, the medical corps, are recruited, and from which, also, come the vast herd of idlers that is too highly cultivated to work in manual labor, and too worthless to follow out any line for which their education may fit them to be useful as members of society.

"We think we may be pardoned for holding in importance the science which teaches our youth to look to the earth and inspect its soils, and discern the hidden powers of nature that, when applied, will make teeming crops and an abundant yield. We may be

pardoned if we think this science equal in dignity and equally useful with the science that would consult the stars and the planets, and endeavor to determine their occult influences—influences which, if discovered, could never be controlled. It may be discovered that spots on the sun control vegetation, and the phases of the moon regulate the tides and the weather; but it is beyond the powers of man to regulate these awful influences. Metaphysical wranglers may worry their minds over innate ideas, questions of time and space, or even the calculation of the number of angels that might dance upon a needle point. The practical knowledge of one's own self, as each man may discover, and an analysis of, and knowledge as it grows with us, and a knowledge of things that are actual around us, are as worthy of thought as these questions of the schoolman. It is as important and dignified to know how to stretch and preserve the skins of cattle slaughtered with the knife, and save their meat for food, and pack it in barrels with salt, as to be able to kill the ephemeral butterfly with chloroform and preserve it with arsenic, packed away in a show case, with a Greek name in polysyllables pinned on its back, doing the honors of an epitaph and biography, offered as an atonement for its poor little life, that was taken for science's sake by some murderous crazy bug hunter.

"There were those who thought the studies of the proper application of the pulley, the lever, the wedge and wheel and axle to aid the powers of man's feeble muscles, and the principle of machines that assist to make work easy and redeem men, women and children from a life of toil, were quite as important and dignified as the study of the mechanics of the solar system, or as the dreams of the fanciers, who imagine in their reveries that they hear the music of spheres.

"Enough, however, of these comparisons. In practical life and practical work there are no useless, senseless humbugs. In the pastimes of science, literature and art, there are thousands of things that the world were better had they never been, but being, if they were forgotten. Still, in contrasting much that is embraced in polite learning with the useful and practical knowl-

edge needed in every day life, let it not be understood that those, who gave dignity and importance to that which is useful to the masses, decried or tried to lower the proper dignity of higher education in literature, science and arts. While there is much of chaff in the ordinary so-called higher education, its aims, objects and effects on society in its enjoyments, its government, its strength and prosperity, are all important. The mistake that has been made is by the zealous friends of higher education that treats of the polite branches. They have lost track of the usefulness of the branches that should be taught to the masses in agriculture and mechanics and in kindred pursuits.

"Because there were those who would not ignore the necessity that the State should endow with lavish hands the institute that looked to the enlightenment of the masses in their ordinary pursuits, they were pronounced enemies of higher education—enemies of the great State University! Never was a more unjust charge uttered; never was there a party more grossly represented. The importance and dignity of both classes of education were fully appreciated. It was to distribute the revenues provided for education to all these subjects, and to foster all the institutions that were to make our people more enlightened, prosperous and happy, that influenced the introduction of measures in regard to the University and common school establishments that my name has been coupled with, much said to my detriment, and unjustly, as misunderstanding my sentiments and misrepresenting both my opinions and the measures proposed by me for legislation."

After analyzing and defending the features of his bill, Mr. Pfeuffer added:

"I have covered every point that I have advocated in the bill introduced by me. I have acted according as I have thought right, in the introduction of this bill. No man is responsible for these measures other than myself. Owing to relations of close friendship existing between me and Governor Ireland, he has been charged by those vindictive against us both, with attempting, through me, to inject these measures into

the laws. Not one word of proof has been offered in support of this coalition, and the assertion rests on bare assumption. I can do no more than enter my solemn protest against coupling his name with these measures, because he neither framed them, dictated them, nor suggested them; and I am not advised as to how far he would have sanctioned them had they been submitted to him as legislative acts for executive sanction. I wish to bear all this burden alone. I take all the responsibilities. Since unjust criticism of the press has called forth these remarks, it may not be out of place to thank those gentlemen of the press who have fairly stated the principles in the bill, and who follow the advice: 'To nothing extenuate or naught set down in malice.'"

As to Senator Pfeuffer's assumption, his satire applies to any institution of mere fanciful methods or imperfect means of instruction, and may, therefore, be and in fact is, if applicable to either, as pertinent to the College as to the University. He proceeds on the false assumption that nothing practical is taught at the University, and loses sight of the fact that what is taught there is quite as important to the great mass of the people as anything taught at the College, taking the people collectively, since all students at the College are not farmers' sons, and few who are, go there to study agriculture as a science with a view of becoming farmers, the great majority of them, indeed, aiming to be anything but farmers, while as a fact, as many such students attend the University as the College.

As to the State endowing the College ever so lavishly, certainly the friends of the University have never objected, but would be glad to see it continued if the State would use the general revenue or some other than the University fund, so as not to drain the latter by excessive appropriations for the College. Arguments like Mr. Pfeuffer's tend only to show that, to prevent such contentions as are in question, the College, which should never have been located away from the University, should be transferred to the University home at Austin, where agricultural education can be bestowed as well as at the College at Bryan.

The views of such governing minds in this State as those which have been referred to, with others which will be cited, are interesting indices in the history of higher education, at least in the South. As for Governor Ireland, he was remarkable as a self-made man, known in early life as "Ox Cart John," and sometimes modestly referred to his own experience as an illustration that a university education was not a *sine qua non* for success. It may well be added, however, that while few men succeed like Governor Ireland, by the force of natural abilities, even he would doubtless have been still more distinguished under the higher advantages of university education.

The following expressions from the "university address," delivered by Gen. D. H. Hill, of Georgia, at the Texas University commencement, June 20, 1888, are also interesting in connection with the policy and great influence of such institutions:

"I believe in State Universities. I believe that the cause of education will be better promoted by one institution of high character and scholarship than by many, very many institutions of lower grade. Long ago, one of the greatest educators the South has produced, in appealing to the legislature of South Carolina for more generous aid to its State college, used a remarkable metaphor: 'One sun is better than a thousand stars.' Dr. Thornwell's illustration needs only to be presented to the mind to have its truth felt and acknowledged. As one sun diffuses more light than a thousand stars, so one grand university can diffuse more knowledge than a thousand schools of inferior grades. As the planets revolve around the sun and borrow their light and lustre from him, so these schools should derive their tone and culture from the university. So it has been with the great universities of England for the past eight hundred years. During that long period the planets have not more surely reflected the light of the sun than have the subordinate colleges, academies and schools of Great Britain reflected the scholarship and intellectual character of Oxford and Cambridge."

NECESSITY FOR THE UNIVERSITY.

As to the occasion for the establishment of the University of Texas, and the success of the institution, it may be fairly assumed that its early organization was demanded in response to keen desire and readiness in the public mind for such an enterprise, and that independent of good or bad management by the State or regents, or both, its success is assured as an economic necessity in educational policy to stay the tide of Texas students and drain of Texas money, out of the State to other institutions, and to check in favor of home talent, the filling of Texas teacherships and other professions requiring educated talent, with outside applicants. The people felt grated at the necessary preferment, on account of superior education, of young men and women from other States to fill the higher positions for teaching elocution, the fine arts, drawing, painting, music, architecture, engineering, etc., in their own schools and colleges, and the success of superiorly educated persons from other States to the detriment of their own less educated sons and daughters. Hence, parents to offset the odds against their own children sent them abroad to such institutions as would afford them the same advantages as parties possessed who came here from other States and outstripped them in the competition for home work and places of honor and profit. Hence it is that the names of Texas students of either sex have so long largely swelled the registers of the best institutions abroad, simply because such institutions have the reputation necessary to attract ambitious young men and women, or the children of wealthy parents who can afford to give them the benefit of the very highest educational advantages; and this will continue to be the case to a large extent till the University of Texas is brought fairly into competition with the great universities of the country by its innate grandeur and peership in rivalry with them. The State is full of material ripe enough for university education, and it is not "district colleges as feeders," but the all-satisfying repasts of a grand university's advantages that are wanted to materialize home talent into development at home institutions for home work and professional excellence.

MESSAGE OF GOVERNOR ROBERTS.

Relative to this subject the following extracts from the message of Governor Roberts, April 6, 1882, to the Seventeenth legislature, are interesting :

“The whole question about the establishment of a first-class University and its branches is: Shall Texas give her own native-born sons and daughters the facilities for fitting themselves to occupy those higher walks, so necessary in the proper direction of her future destiny, or will she leave her own sons and daughters to be kept in a lower sphere of life, and be therein directed by the learning and skill of strangers, sons and daughters of other States, who will come here and fill the places which her own sons and daughters ought to occupy, and will occupy if they are given a fair opportunity?

“Every great State should rear its own men in every stature of manhood, of intelligence and of culture, according to their capabilities, upon its own soil, and thereby engender and preserve an intense homogeneousness in the character of its population, which must result in the concentrated power and elevated prosperity of the whole body politic in association. This full result can be attained only by promoting all of the grades of education, from the lowest to the highest, in harmonious co-operation adapted to the diversified wants of every class of people whatever may be their pursuits in life. Nor will the benefits of the University and its branches be confined to the sons of the wealthy few. By no means will that be so. Place the facilities of a higher education before the people of the State, make it a reality, make it complete and cheap by a splendid endowment, and youths all over this broad land who catch the inspiration of high native talent in our common schools, will, if necessary, struggle up through poverty and through adversity by labor and by perseverance, until they will stand in the front ranks of the most gifted and favored in the halls of learning, and afterwards will adorn every sphere of life with their brilliant accomplishments and practical usefulness. So it has been in other countries, and so it will be here. By adding two million acres of land to

the one million acres heretofore set apart for the University, and making proper arrangements for its disposition, a permanent fund might be accumulated that would ultimately be adequate to meet the expense of establishing and maintaining a first-class University."

JUDGE TERRELL'S ARGUMENT.

"Such," said Judge Terrell in his speech in the State senate on a bill to set aside two million acres of land to endow the State University and a like amount for public free schools, * "is the message sent to us by the grand old man who sits yonder in the executive office, himself a child of adverse fortune, who struggled up through poverty to a higher education."

In that same speech Judge Terrell, referring to the affairs of the University at that time, cited "as the available fund of the University (exclusive of the appropriation made therefrom to the Agricultural and Mechanical College and the Prairie View Normal School), \$47,925.11; bonds marked as of 'doubtful validity' by a former Radical State administration, \$134,472.26; interest thereon from January 1, 1867, to April, 1876, say \$62,473.58; comptroller's certificates of indebtedness, \$10,300; available amount from, allowing interest on the above bonds from April, 1876, to January, 1879, when the bonds matured, \$18,209.77.

"The annual interest as estimated by the comptroller (which makes the available fund of the University) would be only a little over \$20,000. The annual increase in sales of lands will not be over \$2,000 more. We have just sent to the other house a bill providing for the recognition of the debt on the bonds of 'doubtful validity' amounting to over \$134,000, with interest for twenty years. This is the third time the senate has by a large vote sent this claim to that body for a debt which the State owes from University money used by the State, about which no honest man can doubt, and I fear the house will exhibit its characteristic feeling to-

* It is a singular fact in Texas legislation that bills proposing land donations for the University were not likely to pass unless they made similar provision for the free schools, so as to attract the support of the latter's special advocates, and were generally so framed for that purpose.

wards this 'spoiled child,' as the University has been called, by still refusing to pay it." [This was prophetic. The bill did not pass and the bonds were not validated by the legislature till 1883.]

"Now," continued Judge Terrell, "out of the meagre annual resources, shown by the above figures, the University buildings must be constructed, professorships established, an astronomical observatory erected and telescopes procured, a chemical laboratory provided, philosophical apparatus and geological cabinet secured, and many other things necessary to a first-class university. Even a fool can see that unless a larger endowment in money, or in land that will bring money, is obtained, this grand enterprise must perish in its very birth, and our people must continue every year to send their sons and daughters to other States, with over half a million of money, by actual estimate, for their university education, that they may come back Kentuckians, Virginians and Massachusetts people. To permit such a state of things to continue when we can endow without taxing the people one cent, would not only be wrong, but criminal.

"The cry that the University will be 'a rich man's school' can impose on no one.* The rich can send their sons and daughters abroad to other States, as they do now, but Texas needs both for them and her poor boys, a fountain of learning covering the whole field of knowledge, of which all may taste. But suppose it is a school for the benefit of those favored by fortune, in the name of common justice, who should object? The property holders of the State draw from their pockets every year the means by which the poor are educated. One-fourth of all the taxes of the State are paid to teachers to instruct the children of the thousands who pay no taxes, and of the common property fifty millions of acres already surveyed have been granted as a perpetual fund to endow the common

* This objection is said to have been made by Gen. Darnell, who had been speaker of the Seventh Congress of the Republic of Texas, in 1842, and speaker of the Nineteenth legislature of the State, in 1861, and by other prominent members of the convention of 1875, and seems to have had its influence as late as in the Twentieth legislature of the State.

schools forever. When those who own the land and pay the taxes have been thus liberal with the taxes which they pay every year, who dare complain if the State shall endow a university to afford the sons and daughters of the same taxpayers the means of more advanced instruction. I fail to appreciate the statesmanship which panders to class prejudice, grows eloquent over 'common schools,' on the eve of an election, and yet hangs on the wheels of intellectual progress because all men are not rich. Nor further can I understand that statesmanship which would limit the aspirations of our bright-eyed boys and girls to such knowledge as the common schools will bestow."

BONDS OF "DOUBTFUL VALIDITY."

The history of the bonds referred to by Judge Terrell is peculiar. They were issued in lieu of \$100,000 United States 5 per cents which the State had donated to the University in 1858, but were used mainly for "frontier defense," as the act authorized, during the administration of Governor Houston. They were not validated till February, 1883, when the Eighteenth legislature allowed the University \$134,472.26, the amount of the bonds issued under act of November 12, 1866, and \$45,104.22 as interest on that amount. Thus, only \$15,104.22 went to the University's available fund under the law constituting interest on bonds part of such fund, but the University had to lose \$9,472.26 interest on the same bonds, which was merged with the principal in the \$134,472.26 on account of a provision in the constitution of 1876 (Art. VII, Sec. 11,) that "all lands and other property heretofore granted or that may hereafter be granted to the University shall become permanent fund of the University to be invested in bonds, leaving only the interest on the bonds for appropriation as available fund."*

* Owing to this same provision, private donations to the University to endow professorships or for any purpose, were impracticable for the use of the available fund till the Twenty-first legislature passed acts, introduced in the house by Representative Brown and by Senator McDonald in the senate, legalizing them within the terms of the donations so as to carry out the objects of the donors. Both acts appear almost identical in the laws of 1889.

The idea of the Republican State officials as to these bonds was that the State's transactions in them were tainted by use of their proceeds during the Rebellion, with other funds amounting, as reported November 30, 1870, by Comptroller Bledsoe, to \$134,472.26, as well as "\$10,300.40 for University land sales." Mr. Bledsoe at first reported these items as a "valid debt" of the State, but afterwards, by implication from a ruling of Attorney General Alexander on a similar question, classed them on his books as "worthless accounts," and finally dropped them from his statement of the public debt. Comptroller Darden, however, finding them on the books of the office, embraced them in his public debt statement, and in his report asked the legislature to pass upon the question as to their validity or invalidity.

The ruling referred to, of the attorney general, was by letter October 26, 1880, to Comptroller Bledsoe, that "No payments made during the Rebellion by the railroad companies to the school fund of Texas can be regarded as valid," and was based on Sec. 34, Art. XII, of the State Constitution of 1869, ratified under the reconstruction acts of congress, annulling debts incurred in aid of the Rebellion.

The facts show that Comptroller Bledsoe erred in his ruling. The bonds were issued by the State in place of the United States bonds, by act of November 12, 1866, of the Eleventh legislature, whose acts have always been regarded as valid, except such as were in aid of the war and such as are in conflict with the constitution and laws of the United States, and such as were specially set aside and abrogated by the military authorities of the United States. The above act did not come within any of the above exceptions, and is therefore binding on the State, as finally recognized by the Eighteenth legislature, in validating the bonds. The "frontier defense," for which some of the funds were used, meant defense against the Indians and Mexican marauders on the Rio Grande. They were not, as Mr. Bledsoe supposed, used in aid of the Rebellion.

In an alumni address, June, 1889, Mr. Hamilton thus alluded to these bonds: "In 1860 the legislature

in cold violation of the law took from the sacred fund of the University this \$100,000, and gave it to the general revenue. In 1861 the legislature again drew on the University fund for \$25,000, making in all, principal and interest, \$134,492.26, without holding the State responsible for interest on that amount. And when the University presented her claims in 1887, the principal and interest then due by the State on this loan amounted to \$190,000, for which she was forced to accept \$134,472; and that too, in State bonds, payable twelve years after date."

Governor Ross, when a member of the State senate, was largely instrumental in having these bonds replaced as an obligation of the State to the University.

LAYING THE CORNER STONE.

Col. Ashbel Smith in his address at the laying of the corner stone of the University, which was done with imposing ceremonies at Austin, Nov. 17, 1882, in the presence of an assemblage of over three thousand spectators, proud of a consummation which he had most assiduously labored to accomplish, said:

"We have come up together to do a great work. We have come to lay the corner stone of the University of Texas.

"The original of an University for Texas, of a home institution, dates back to the heroes of San Jacinto. And this University, such as the founders of Texas with a people of the present race contemplated and provided for, such an institution as the wisest and best men of today among us look to be here established cements the victory of San Jacinto and consecrates that battle as one of the few decisive battles of the world, and this Texas soil, to free institutions, to virtue and to power. Keen and fierce were often the political antagonisms of the Texans of that generation but on the subject of providing a thorough home university education for the youth of Texas these stern men were as one man.

"The people of the State of Texas in their constitution, Art. VII. Sec. 10, do ordain and command that the legislature shall, as soon as practicable, establish,

organize and provide for the maintenance, support and direction of a 'university of the first class' for the promotion of literature, and the arts and sciences, including an agricultural and mechanical department. Here are the words of the constitution; they are clear in meaning and explicit; they are mandatory; they command the legislature; they express the will of the people of Texas; they give no countenance to the conceits of individuals who presume to be wiser than the people, and to set aside their sovereign will in favor of their own plans of public education. The people of Texas in the constitution ordain the establishment of a university of the first class as solemnly as they ordain the establishment of courts of justice, of common schools and other institutions of society. There is no open question of policy; the constitution has decided this matter.

"The question has been sprung whether it is not too early to establish an university of the class in question. Why Texas has at this moment a population of nearly 2,000,000 souls—about double the population of Virginia, slaves included, at the time when Mr. Jefferson founded its University—three times the white population of all Virginia at that period.

"I beg your attention to a gross error, somewhat prevalent, in regard to any university that may be established in Texas. It is, that a first-class university—indeed any university—as required to be established by the constitution, will be an institution exclusively for the rich, and not for the poor. The contrary, rather, will prove to be the fact. An university with tuition *free*, as provided for by the constitution, will be in a special manner for the poor.

"Unless an university shall be established in our State, not only is the poor boy excluded from the education which shall give him an equal start in the great race of life with the son of the rich man, but the father possessing a moderate and comfortable competency is debarred from bestowing on his son an university education. Where is the demagogue that dare refuse this natural right to a thorough education to a poor boy—to the children of the poor? I say natural

right; for are not the public lands, and the proceeds of the sales of these lands, the rightful property of the poor as well as of the rich? The University of Texas is emphatically the poor boy's University.

"Some persons labor under a vague impression that there is or may be an ill-defined rivalry, opposition, conflict of interests and purposes, between the University and common schools. In their deep interest for common school education, they conceive a distrust, and entertain a not very clear idea of opposition toward the University. In this distrust they take refuge in the notion that it is safest to perfect first our system of common schools, and to postpone the University. Now, so far from there being any rivalry, opposition or conflict of interest, between the University and the common schools, the exact reverse is the fact. They are indeed the best friends, each of the other, and especially is it true that the University is the great and efficient practical friend of common schools. Common schools commence the supply of students for the University. They are together the complements, each of the other, of a noble system of the best education of the people. I beg to invoke authority and experience that will not be gainsaid.

"Mr. Jefferson was pre-eminently the apostle of the people. He has left on record his opinion that the benign influences of a higher education, an university education, such as is now given in the University of Virginia; such as is contemplated to be given in the University of Texas, will permeate the masses, and diffuse knowledge, the blessings of the common schools, among the people. These are Mr. Jefferson's words: 'Make the University as good as possible, and the spirit of education will permeate the masses, in the end securing them (the masses) the highest possible attainments.'

"Mr. Jefferson wrote his own epitaph: 'Thomas Jefferson, the author of the Declaration of Independence, and founder of the University of Virginia.' This is his epitaph; written in the maturity of his years and wisdom, in view of the solemnity of the grave, with the fruitful experience of his university before

him. 'Founder of the University' is his appeal to the grateful remembrance of future ages. Let no man hereafter delude himself with the idea that he is a Jefferson Democrat, when he repudiates the fundamental idea of Thomas Jefferson.

"Have Mr. Jefferson's lofty anticipations of the blessings to flow from the University, of which he was the founder, been fulfilled, or was he a deluded visionary? And are those among us who shake their heads in distrust of an university, or stiffen their necks in hostility to it, the wise counsellors of the people? Let us see. I appeal to the record, to the annual report of the University of Virginia for last year. With honorable pride, with proud satisfaction, the rector, Gen. Alex H. H. Stuart, and the board of visitors report to the governor of the State as follows: 'The record of the achievements of the University in advancing the cause of education in Virginia, and in many of her sister States, must be gratifying to every patriot. Her work has been a grand one, and she has accomplished it nobly. Her influence is daily felt through more than one-half the Union. She has performed the office of the great heart of the system of Southern education, sending with strong pulsation, warm and invigorating life-blood through every part of it, down to the humblest primary school.' This is experience, this is fact. Let us then of Texas rise above idle suspicion and ignorant distrust, and gird ourselves in earnest for performing the same noble office for this grand country of the American Union, south and west of the Mississippi. *

"The University of Texas will not merely educate a vastly greater number of students than would otherwise obtain a high education; but there goes with it an advantage that is scarcely possible to overrate. It is a home education for the youth of our State. The youth who gets his education at home is in accord, in a sympathy, having the strength of an instinct, with the people of Texas, his heart beats in all its pulses

* The influence of the University of Virginia had considerable weight in the selection of the early professors for the University of Texas.

with the heart of the great mass of his fellow citizens, with a common heart, if I may so speak, of the people of Texas. Further, a corps of young men leaving the University annually and settling in every section of the State, carry with them common sympathies; they unify the people of the State, make them one homogeneous community. They unify all the sentiments of all sections; make the citizens of various sections to understand each other, to esteem each other, and all of us to feel that all our great interests are in common, one and the same, including the existence of the State, one and indivisible."

THE UNIVERSITY IN POLITICS.

Governor Houston in his message of January 13, 1860, said: "The \$2,000,000 set apart for the school fund yet remains, but the balance of the \$5,000,000 received from the sale of our Santa Fe territory to the United States is exhausted, except the amount set apart for the University fund, amounting to \$106,972.26 and the balance mentioned of \$411,402.60 belonging to the general fund.

"The establishment of a University is in my opinion a matter alone for the future. At this time it is neither expedient nor is it good policy to provide for the sale of those lands set apart for the University fund. If at some future period it should be deemed expedient, or in keeping with a more enlarged policy, to devote our entire energies to a more general diffusion of knowledge than a university would afford, or even if the voice of the State should demand the establishment of one, these lands will then provide the means of advancing the cause of education. When that period arrives, their value will be greatly increased. If sold now, but little will be realized from them. And before the expiration of twenty years, the time upon which over fifty thousand acres have already been sold, the lands will be worth more than three-fold the amount they would bring now, with accumulated interest.

"So far as one hundred thousand dollars of bonds and their interest taken from the general and applied

to the university fund, by the last legislature, are concerned, I believe the condition of the treasury and our immediate necessities demand that the act be repealed, and the money be again placed subject to appropriation. We need money for the protection of our frontiers, and to save us from taxation more than for a fund which promises no immediate benefit. Our common school fund already provides for the education contemplated by the constitution, and if this amount, thus unnecessarily withdrawn from the general fund, will reduce the burthens of taxation, the people will be better able in the future to bear taxation to support a university, if one should be necessary."

In his message of January 21, 1861, Governor Houston says: "The executive, to support and render efficient the force which he had from time to time in the field, has had no money at his command, except the University fund amounting to \$106,992.25, which was by special act of the legislature authorized to be used for purposes of frontier defense. It was his opinion that the legislature intended that this fund should be used alone for the defense of the Indian frontier, and not for the payment of claims on account of the war upon the Rio Grande. The troubles upon the Rio Grande cost the State an amount far beyond the estimate of the legislature and when claims were presented for supplies furnished troops, the executive did not believe the money should be drawn from the University fund, and expressed his views in that respect to the comptroller. That fund was the sole dependence of the executive for the purchase of supplies to keep troops in the field. A considerable sum was paid, however, from the fund for debts contracted during the Rio Grande war. This reduced the amount which (otherwise) might be used to defend the frontier to \$76,937.73 which has been exhausted. * * * Finding that it was impossible to purchase any adequate amount of supplies on the credit of the State, the executive in two communications dated the 8th of November and 7th of January, suggested to the State treasurer the propriety of using for purposes of frontier defence the amount in the treasury on account of University land

sales, but the opinion of that officer, C. H. Randolph, was averse to the proposition and that fund amounting to \$34,708.14 still remains in the treasury.

In his message of February 5, 1861, Governor Houston says: "By the treasurer's report, received on the 2d inst., it appears that there was then in the treasury, subject to disbursement on account of State revenue \$5,279.60. The legislature has already appropriated \$9,768.62 of the fund arising from University land sales, and \$17,313.30 of the fund accumulating from estates of deceased persons, for the per diem and mileage of its members, and it has only been by the use of these funds that the treasury has been spared thus far from entire bankruptcy. The amount on hand will be exhausted before the termination of the present week, when there must be a suspension of special payments altogether."

Governor F. R. Lubbock, governor of Texas during the Confederate war, in his message of December 31, 1861, vetoed "An act making an appropriation for the mileage and per diem pay of the members and officers of the Ninth legislature," which, among other provisions, authorized for the purpose the use of funds of the University, with other funds named.

The governor gives his objections to various features of the bill, and in doing so, as part of his message, says:

"The second section provides that for the payment of the members of the legislature and the officers of both houses, the treasurer may use any funds in the treasury, belonging either to the proceeds of the sales of the University lands, the settlement of the successions of deceased persons, escheated property, and the sinking fund on railroad bonds; providing, however, that when any of such bonds shall be used, the treasurer shall replace the amount so used, with bonds of the State for like amount, and that each member shall receive his fair proportion of such funds.

* * * * *

"If this act should become a law all the present available funds in the State treasury, of every descrip-

tion, will at once pass from the vaults of the treasury into the hands of the beneficiaries under this act.

"While I believe that the State should pay to the utmost of its ability all its officers, both civil and military; yet under the present critical condition of our beloved State and Confederacy, I confess I would witness, with feelings of the deepest sorrow, the last dollar drawn from the treasury, unless to furnish arms, ammunition and clothing to her gallant sons, who are now so proudly vindicating the old fame of the Texan soldier.

"The monies arising from the sales of the University lands were intended for a wise and beneficent object, and I greatly doubt the wisdom of disposing of them for the purpose indicated in the act under consideration, or for any like purpose. The funds arising from the settlement of successions of deceased persons and escheated property belong in all probability, to minors and orphans, who have no legal protector or guardian to demand these sums in their names. I am further informed by the treasurer in the statement herewith submitted, that he has unofficial information that a large portion, if not all, of the last named funds will probably be shortly demanded by their rightful owners.

"There is a still more grave and serious objection to the proposed appropriation of the sinking fund on railroad bonds. (Objection is stated at length.)

"At a time when every energy of the State should be husbanded for defense, we should carefully guard against draining the treasury, to meet the ordinary expenses of legislation, of special funds, protected by constitutional provisions, or held in trust subject to the use of others. The time may speedily come when self-preservation shall demand that every resource of the State be put into requisition for the defense of our liberties and hearthstones; but surely the appropriation of these funds can be justified only by the grave necessity of employing them in defending and preserving the lives and liberties of the people."

The veto was sustained, but by a very close vote. Evidently Governor Lubbock believed that no matter

how justified the right might be for using these funds the State was not justified in keeping them, without providing for their restoration to the University.

[There is a hiatus in the publication of the journals of the legislature during the Confederate War, and, on that account as well on account of the burning of the old State house, some of the journals and other official records are not preserved even in manuscript. The proceedings, however, mainly related to war measures not affecting the University further than appears in the reports of the University Regents.]

Governor Hamilton in his message of February 10, to the convention of 1865, says: "The debt created by those who were in authority in Texas during the Rebellion, in support of the war against the government of the United States, is not in my judgment, such an obligation upon the people of Texas as will find any favor with our loyal citizens, or with the government of the United States. To provide for the payment of this debt would be equivalent to a justification of the purposes for which it was created. * * *

It may be difficult to ascertain accurately that portion of the public debt of the State which was incurred in support of the war.

"I have reason to believe that more than three-fourths of the indebtedness which has accrued since the commencement of the war was created in its support. As a means of facilitating your investigations upon this subject, I respectfully refer you to the report of ex-Governor Pease and Swante Palm, Esq., copies of which will be furnished to your honorable body.

In this connection I feel it to be my duty to remind you that land scrip to a considerable amount was purchased during the progress of the late Rebellion, and paid for in the paper money issued by the government of the Confederate States. Perhaps in some instances these payments for land scrip were made in treasury warrants of the State.

"Payments were also made during the Rebellion, in Confederate money for portions of the University lands sold under a law of the State, enacted before the

passage of the ordinance of secession. The commissioner of the land office and comptroller of public accounts can furnish such information on these subjects as you may desire."

March 23, 1860, Mr. Waul for the finance committee to whom was referred the report of the committee on education reported as due and belonging to the common school fund:

"Bonds of railroad companies and interest, \$2,-053,978.73; bonds substituted by manuscript warrants; interest and non interest warrants; United States 5 per cent bonds; receipts from land sales, etc., \$1,285,327.05 which has been converted and expanded or in controversy under the acts of the officers of the State since January 28, 1861 and before August 5, 1865, or rendered unavailable to said fund by the principle established in the ordinance of this convention declaring the State debt void.

"The committee find there has been paid into the treasury on account of University lands:

Specie on account, principal and interest on notes.....	\$37,932 04
Ten per cent interest bearing warrants	12,230 39
Non-interest bearing warrants.....	10,300 41
Confederate notes	114,804 48
Transferred to State revenue account.....	203,301 30

Amounting to..... \$379,168 62

which has been converted and expended, during the war by the State authorities.

"They further state:

United States 5 per cent bonds.....	\$100,000 00
Specie interest on same.....	9,472 26
Specie or coupons one month interest....	416 66

Amounting to..... \$109,888 92

was transferred from the University fund to the State revenue account in February, 1860, under an act of February 8, 1860, and should be restored by the State to said fund."

In 1866, Governor Pease appointed M. W. Allen, "agent for the sale of University lands." Since then other agents have been appointed to look after the lands in some way, but so far as the records show, probably had little to do except to draw their salaries at the expense of the University fund.

Governor Throckmorton in his message of August 18, 1866, says: "I invite your attention to an ordinance which requires coupon bonds of the State to be placed to the credit of the University fund in lieu of the United States bonds belonging to this fund which were transferred by act of the legislature of January 31, 1860, to State revenue account and suggest the necessary action on your part to effect the intention of the ordinance. The amount of bonds and interest due at the time of transfer was \$109,472.26 which will require corresponding amount of State bonds.

"Under a law, approved August 30, 1856, the fifty leagues of University lands were sectionized and 58,523 acres were sold, at an average price of \$3.34½ per acre. I invite your attention to the law referred to, and the report of the commissioner, John Henry Brown, in relation to the sale of the lands. The law needs some amendments, and I desire the legislature to consider the necessity of making further sales from time to time, as the lands are likely to command fair prices. It is my opinion that the sales of marketable quarter sections, selling alternately, should be continued.

"There has been paid into the treasury on account of sales of University lands, \$126,342.90, and there remains as yet unpaid as principal, \$70,320.92. The amount of interest paid up to April 18, 1865, was \$48,924.42, and the approximate interest due up to the year 1878, is \$55,888.86. In the event that the sale of these lands is continued, I would suggest the propriety of investing the proceeds in interest bearing stocks of the State or the general government.

I would ask your attention to an apparant conflict between the eighth section of the tenth article of the constitution and the ordinance in relation to the school and University fund. The first would seem to imply that the State is liable to this fund for all monies heretofore set apart to it, and subsequently transferred to other accounts, and replaced by comptroller's certificates of State indebtedness. The ordinance prohibits the legislature from providing "for the payment

of any claim or pretended liability of the State to said fund, not enumerated" therein.

"If the latter prevails, the \$10,300.41 of comptroller's certificates of indebtedness deposited to credit of University fund, and the \$12,230.39, ten per cent State warrants, must be cancelled, and your honorable body should so direct."

In the Eleventh legislature, November 12, 1866, upon motion of Senator Guinn, a joint resolution for the establishment of another University contra-distinguished from the University of Texas, was taken up, amended by adding M. H. Bonner, of Cherokee, and J. M. Perry, of Anderson county, to the board of commissioners and passed.

[See Texas house and senate journals Eleventh legislature, and appended reports of Comptroller Robards and Messrs. Pease and Palm, and special report of James H. Raymond, agent for John Hancock, acting under orders of Maj. Gen. Granger, United States Army.]

Judge Hancock had been requested by Gen. Granger to select some suitable person to take charge of the State's funds, and they were turned over to the custody of Mr. Raymond.

In a final report of the administration of Governor Throckmorton when he was removed from office August 8, 1867, by federal authority, as an alleged "*impediment to the reconstruction of the State*," by special order July 30, of Maj. Gen. Sheridan, the affairs of the University are thus alluded to:

"As required by a joint resolution of the last legislature a board of administrations of the University of Texas was appointed. The board met and organized February 15, 1867. After considering the various questions connected with their duties, it was concluded not to make a selection of a site for a University, but to examine localities where donations were offered, and points which presented favorable considerations. The legislature set aside twenty-five of the fifty leagues of University lands for the endowment of the East Texas University, and appointed a board of adminis-

trators to select a site for the same. I am not advised of any action of this board.

"Under an act of November 12, 1866, M. W. Allen was appointed an agent to select and sell portions of the University lands and to superintend the correction of conflicting surveys, etc. Selections have been made in Grayson county and sales took place August 1, 1867. Another selection in Fannin county is to be sold the first Monday in September next. I presume other selections have been made, but not yet reported. Mr. Allen has personally inspected the lands and selected those most likely to bring fair prices.

"There remains unpaid on University lands, heretofore sold by John H. Brown, principal and interest due August 1, 1867, \$30,035.53 specie. These lands are, under the law, subject to re-sale. The necessary papers have been prepared at the treasury and in the land office, under the supervision of Attorney General Walton for the purpose of advertising and selling these forfeited lands. Under the direction of the act of November 12, 1866, specie bonds of the State, with 5 per cent coupons attached, to the amount of \$134,472 26, have been executed and placed in the University fund in lieu of this amount, with interest belonging to said fund, used under direction of former legislation.

"On February 28, last, I forwarded to Hon. B. H. Epperson the acts of the legislature accepting the land scrip donated to the different States by congress, for the endowment of agricultural and mechanical colleges, with authority to receive the same, etc. The authorities declined to issue the scrip."

Governor Pease in his message to the reconstruction convention in 1868, casually says: "The officers of the government at this place are prepared to furnish your honorable body with such reports as will give you full and accurate information in regard to the state of the treasury at the commencement of the Rebellion, during the progress and at the present time; the condition of the school fund and the University fund, and the amount of each diverted to the support of the Rebellion; the sales of land scrip that were made during

the Rebellion, and all other information to be found in the public records that may be useful to you in the discharge of your duties.

Among the suggestions of Governor Pease to the convention, he stated that the convention was expected to declare that "the pretended act of secession and all laws that have been enacted, in aid of the late Rebellion, or repugnant to the constitution and laws of the United States, are and were null and void from their inception; and that you will at once repeal all laws that make any discrimination against persons on account of their color, race or previous condition."

The message further states: "The amount of money in the State, May 31, 1868, applicable to the ordinary expenditures of the government, is \$203,079.69, of which \$202,884.35 are in United States currency, and \$195.34 in specie. This is exclusive of the amount standing to the credit of the school, University and other trust funds. It is believed that this money, with that which will be received from time to time under the present tax laws, will be sufficient to meet all the expenditures of the government, and pay the expenses of your honorable body, unless they should be greater than is anticipated, without imposing the additional tax contemplated by the supplemental reconstruction law of March 23, 1867."

In that convention Mr. Sumner proposed a section for the new constitution providing that "all public University lands in the State of Texas, that have not heretofore been disposed of, shall be turned over to the common school fund; and it shall be the duty of the legislature to pass such laws as shall provide for free schools in every neighborhood in each county of this State."

It was not adopted, and is alluded to only show how little regard some members had for trust funds, and especially those of the University.

Hon. E. J. Davis was president of the convention. The State officers were John T. Allan, treasurer; E. M. Wheelock, superintendent of public instruction; Joseph Spence, commissioner of the general land office; Geo. C. Rives, acting state comptroller.

Mr. Wheelock, in his report to Governor Pease, says: "It seems to have been a cherished design of the people of Texas to establish an institution for the instruction of youth in the higher branches of learning; and by generous grants to so endow the same as to place within the reach of the rich and poor the privilege of a liberal and thorough education. The president of the Republic was ordered in 1839, to set apart 221,400 acres for this purpose. In 1856, one-hundred thousand dollars in United States bonds, and one-tenth of the railroad lands were also appropriated 'for the establishment and maintenance of the University of Texas' and the lands were offered for sale on a credit of twenty years. The grant was ample, the lands were choice, and large amounts were readily sold at an average price of \$3.34 per acre. Of this fund \$379,168 was destroyed during the civil war by the State authorities; and it is understood that considerable sums, the proceeds of the land sales, were paid in Confederate money.

"The amount of University fund now in the treasury is \$134,472 in State paper. No practical steps have yet been taken toward the location and establishment of this institution. But when once our State is dotted with common schools in full operation, for the education of the children of the people, these will naturally require to be supplemented by high graded and normal schools, adapted to pupils of a larger growth, and these again crowned, by a University. A State University is indeed a logical necessity and outgrowth of the free school system, the head of the grand line of forces by which we would draw the whole people up to light and knowledge."

In his message of April 29, 1870, Governor Davis says: "The University fund and lands may, I suppose, properly be considered as part of the common school fund, though not directly included therein by the constitution.

"It will be noticed that in the comptroller's report of assets the accounts bear from year to year the items 'Special school fund, \$79,409.50,' University land sale, \$10,300.41,' and 'Six per cent manuscript State bonds,

for school fund, \$320,367.13.' These items represent State warrants or State bonds issued during the war, and representing obligations which are now void, should no longer be borne on the comptroller's reports. But the comptroller considers it his duty to continue them until the legislature directs otherwise."

[As to the University item Comptroller Bledsoe, under ruling of Attorney General Alexander, did omit it from his statement of the public debt, but Comptroller Darden subsequently replaced it in his statement, and it was eventually validated by act of the legislature, as has been stated in this volume.]

In his message of January 10, 1871, Governor Davis says: "It will be perceived that I have not included in the estimates of the State's indebtedness, the bonds issued to the common school and University funds, under the provisional act of November 12, 1866, amounting to \$216,641.08 and interest. I can perceive no good reason why these bonds issued to replace five per cent United States indemnity bonds, taken and disposed of during the Rebellion by the authorities then in possession of the State, should now be a charge upon the people. If it is necessary that the school and University fund should be increased in a sum equivalent to those bonds, it had better be done in plain terms, but there is no such necessity, and it is our experience in the past, that the accumulation of these special funds tends to invite spoliation.

"The school and University funds are now, I believe, quite as large as they can safely remain, and the taxes that would go to pay interest on bonds, added to swell those funds, might as well be expended directly in support of schools and universities. I therefore recommend that the bonds issued to the school and University funds, under said provisional act of 1866, be cancelled."

"In connection with the public school fund, or rather the University fund (the two funds properly being considered together,) I would call your attention to the donation made by acts of congress, of scrip representing 180,000 acres of land to provide colleges for the 'benefit of agriculture and the mechanic arts.' I

have made application at Washington for this scrip, and it has probably ere this been turned over to the agent appointed: but under the acts of July, 1862, and July, 1866, of congress, the State must provide within five years from 1866, at least one such college as is described in the acts, or must refund to the United States the scrip or its proceeds. Less than one year remains within which this State can secure the benefits intended. I think we cannot safely attempt at present the establishment of more than one of these colleges, and suggest that this be incorporated with the State University. I recommend the early passage of an act applicable to the case."

September 1, 1871, Messrs. Wm. Alexander, A. Bledsoe and Geo. W. Honey, respectively attorney general, comptroller and treasurer of the State, reported to Governor Davis and the Twelfth legislature, as to valid claims against the State: "In pursuance of an act of the legislature, approved November 12, 1866, five per cent specie bonds of the State of Texas, payable January 1, 1879, were issued and deposited in the treasury of the State, to the credit of the University fund, amounting to \$134,472.26, on account of which no provision has been made for the payment of the interest."

Other claims are included, and they add: "It is believed that the foregoing statement will cover every valid claim created prior to January 28, 1861, not excluded by the constitution."

The statement is attested by John M. Swisher, auditing clerk.

Governor Davis, in his message of January 16, 1873, states that he had not "included among our obligations, the following items mentioned in the treasurer's report:

Five per cent State bonds to credit of University and permanent school fund	\$216,641 05
Six per cent State bonds to credit of permanent school fund	320,367 13
Comptroller's certificates of indebtedness.....	89,709 91
Total	<u>\$626,718 09</u>

"These items," he says, "are relics of the late war and the allusion made to the two last, in my first mes-

sage to the legislature, may well apply substantially to the three. That allusion was: "These items represent State warrants, or State bonds, issued during the war, and representing obligations which are now void, should no longer be borne on the comptroller's reports.

"In effect these bonds and certificates are due to ourselves if at all, to support the University and public schools, and instead of raising taxes to pay them, we may just as well, if necessary, effect the same purpose by paying the taxes directly to the support of these institutions."

Governor Coke in his message of January 26, 1874, to the Fourteenth legislature, says: "The children of the present generation are as much entitled to the benefits of public education as those who may come after them, and I cannot see the practical wisdom of keeping the almost entire school fund of the State locked up and lying dormant in unproductive lands, many thousand of acres of which are in settled counties, retarding each day their proper growth and development

"These lands are of the three classes to-wit: First, University lands; second, the alternate sections of the public domain; and third, the school lands, belonging, at least originally, to the several counties. As to the power of control and disposition of the first two classes by the State there can be no question; with regard to the third class there would seem to be some doubt."

He recommends that if the control of the State as to the last class remains in the State some system should be devised for their gradual sale to actual settlers only, upon easy terms.

A statement of January 16, 1874, from A. J. Dorn, State treasurer, to Governor Coke, shows in the treasury for account of the University fund, \$134,472.16, five per cent State bonds, and for account of the A. and M. College, \$5,880, in specie, and \$174,000 in seven per cent frontier bonds.

In the Fifteenth legislature, during Governor Coke's administration, in 1876, Senator Stephens introduced an "Act to provide for the location and survey of 1,000,000 acres of the public domain of the State

of Texas for the endowment, maintenance and support of the University of Texas."

Senator Terrell also introduced a bill to set apart 1,000,000 acres of the unappropriated public domain for the establishment and maintenance of the University of Texas, and for that purpose to recover from location the lands belonging to the State within the borders of Greer county.

Neither bill passed.

Governor Hubbard, in his message of January 14, 1879, to the Sixteenth legislature, refers to reports of Acting Land Commissioner Rhoads Fisher (Commissioner Roos having died) and Commissioner W. C. Walsh, showing the following University lands located:

	Acres.
In Cooke county.....	22,218
In Fannin county.....	39,520
In Grayson county.....	72,700
In Hunt county.....	7,544 $\frac{3}{4}$
In Collin county.....	2,582 $\frac{3}{4}$
In Lamar county.....	12,146
In McLennan county.....	41,193
In Shackelford county.....	17,420
In Callahan county.....	4,582
Total.....	219,906 $\frac{1}{2}$

whose average value is estimated at \$3.50 per acre, making \$768,672.

The Governor transmitted to the legislature the report of the president of the A. and M. College and of the college for colored youths, and also the printed proceedings of the board of directors since its organization.

"The colored college," he says, "has been organized, the necessary buildings paid for, and the school is now in successful operation. The law requiring its establishment has been faithfully complied with and for a more complete understanding of its status and progress you are referred to the report of the college and to documents relative thereto on file in the executive department."

As to University lands, Governor Hubbard says: "There have been appropriated, and set apart and surveyed, already 219,906 acres of land for the 'establishment and maintenance of the University of Texas.'

"The constitution (Art. VII, Sec. 11) provides that the proceeds of sales of lands shall be invested in bonds of the State of Texas, if to be obtained, if not, then in United States bonds, and shall constitute a permanent University fund, the *interest* of which only can be used by the legislature 'to accomplish the purposes declared in the foregoing section;' one-tenth, however, of the alternate sections of land granted to railroads, reserved to the State by act of February 11, 1858, entitled 'An act to establish the University of Texas' is not included in, and does not constitute a part of the permanent University fund.

"These lands are valuable, estimated to be worth on an average \$3.50 per acre. Under the present restrictions, however, imposed by law as to *quantity*, and requiring actual settlement thereon, many years will elapse before the sales thereof will materially increase. If removed in a short while, I suggest that the available funds thus realized would be amply sufficient to meet the great objects contemplated by the congress of the Republic, and the early legislatures of Texas. To your wisdom I commend these suggestions.

"I refer you especially to the report of the attorney general * in relation to certain sales of these University lands in the county of McLennan, in which the title of the State has been called in question by a recent decision of the United States court at Austin. In any and all instances where the State has sold lands to these citizens and received consideration therefor, in whole, or in part, and the title, when adjudicated by a tribunal of competent jurisdiction, has been adjudged null and void, then the first duty of the State is to reimburse both the principal and interest thereof to the citizen who may be thus injured by his innocent purchase from the State. But a State cannot be concluded by a judgment in any court to which she was not a party, and cannot be made such, under the constitution, without her consent."

* Hon. H. H. Boone was attorney general during Hubbard's term. Hon. George Clark was the previous attorney general during the Coke administration.

What a pity, following this conclusion of Governor Hubbard, that the rights of the University or any State institution, can be compromised by the State, without their consent, or representation in any way as concerned in the matter. It will be fortunate for such interests when a different rule of justice governs State authorities.

In the report to Governor Roberts, prepared by Col. Smith, as president of the board of regents, January 8, 1883, a few months after the first faculty had been selected, and the institution was in operation (temporarily occupying rooms in the capitol building) are given the following interesting statements and reflections upon the political questions affecting the University:

"The board of regents beg to be permitted to state respectfully that they have full confidence in the legislature. The circumstances under which the Eighteenth legislature was elected are, in some respects, peculiar. The convention which met on the 18th of August last, was composed of men of eminent ability, above the average political conventions; they came fresh from the people, and after the conspicuous non-action of the house of representatives a few weeks previously. They proclaimed the principles of the Democratic party, expressed their wishes, and threw forth to the world their mandate in the Democratic platform. That mandate concerning the University is in these words, articles 9 and 10 of the platform:

"9. We declare that a liberal provision should be made to endow with the public lands set apart for the payment of the public debt, or the proceeds of the sales of the same, the State University and its branches.
* * We further declare that the debts due the University and common school funds of Texas, denominated as of 'doubtful validity,' should be recognized and paid with the interest due thereon.

"10. We favor the fullest education of the masses, white and colored, in separate common schools, and the advanced education of the youths of our country in our higher schools and State University.

"Less than three months after this declaration of

the policy and wishes of the Democratic party the November elections took place. The Democratic members were elected on this Democratic platform. The platform rebukes the assurance of individuals who affect to be wiser than the people by saying that the time has not come for establishing a University of the first class. By connecting in one sentence and one common view common schools and the University, it rebukes the shallow judgment which fancies that there is inconsistency or rivalry in fostering at the same time common schools and the University.

"The people of Texas command, in their constitution, that the legislature shall establish a university of the first class. The great Democratic party, speaking for the entire State, embracing the wise and good of all political parties, in these articles of their platform, declare that the time is now come, and demand to establish now such university of the first class. The means to carry their will into effect lie idle in the treasury, and their use for this noble purpose will not add one cent to the public taxes. The people will take no educational starveling, no institution big in name but meagre in performance. They demand a university to be now organized in a manner and on a basis soon to be developed into an institution on the high level of the foremost institutions of knowledge in the entire world; a university whose instruction, absolutely free, shall offer to every child in the State, poor or rich, that knowledge which is power to the individual, and, in the aggregate, power inherent and indefeasible to the magnificent, imperial State of Texas.

"The regents, in closing this report, beg to present to your Excellency their sincere thanks for your wise counsel and hearty co-operation in carrying thus far into effect the important trust committed to them.

"ASHBEL SMITH,

"President of the Board of Regents of the University of Texas."

Several years later Dr. Wooten in his report, as president of the board, made to Governor Ireland, alludes to the action of the dominant political party in the State as follows:

"In conclusion, the Regents take pleasure in calling attention to the action of the Democratic convention convened at Galveston, August 12, 1886. That imposing body of representative men with singular unanimity adopted the following as a plank in the Democratic State platform: 'We congratulate the people of Texas upon the successful establishment of our State University, and we recommend the enactment of legislation to remove the same as far as possible from all political influences, and that its properties and revenues shall be strictly guarded, increased and fostered, so far as it can be done without taxation upon the people.' It is believed that every request made in this report is in strict conformity in letter and spirit with the action of the Galveston convention. The incorporation of the Board of Regents will remove the University 'as far as possible from all political influences;' and the repayment of the money advanced to the Prairie View Normal School, the repayment of the money borrowed by the State from the University, the recognition of the warrants received in payment for University lands, the confirmation of the State's title for the benefit of the University where the same is in dispute, and the investment of the regency with the right to make absolute leases and sales of the University lands, are all in harmony with the platform when it declares 'that its (the University's) properties and revenue shall be strictly guarded, increased and fostered.' The Regents furthermore believe that every request in this report can be granted 'without taxation upon the people.' Nothing has been asked for except such things as have previously been granted, or such as follow logically from previous grants.

"In case the legislation asked for in this report is granted, the Regents are confident that in a reasonable time the University of Texas will become 'a university of the first class.' It will take its place alongside the really great institutions of the country. Year after year young men and young women will go forth from its lecture rooms to become leaders of the people, moulders of public opinion, framers of public policy, defenders of the right against the wrong, and the

upholders of the liberties and the franchises and the morals of the commonwealth.

“ Respectfully submitted,

“ THOMAS D. WOOTEN,

“ President Board of Regents.

“ December 16, 1886.”

The last State Democratic convention, representing the ruling party in the State, which met August 12, 1890, in San Antonio, adopted the following as a provision of its platform: “ We demand that, as a general diffusion of knowledge is essential to the promotion of the liberties and rights of the people, the constitutional provision requiring the public free schools to be maintained and supported for a period of not less than six months of each year, shall be freely and faithfully carried out and that the University, its branches, and the other public educational institutions, be properly endowed and maintained.”

And prior to this, Hon. James S. Hogg, the attorney general of Texas, and subsequently the nominee of the convention for governor, and whose nomination by the dominant party is equivalent to election, thus favorably expressed himself as to the University, in the course of one of his campaign speeches: “ The education of the rising generation is now imposed upon us as a duty. It is declared by our fundamental law to be necessary for the preservation of the liberties and rights of the people, and all patriots should respond with alacrity, pride and liberality to such demands. In this connection it is also with pride that I commit myself to the principle and policy of the proper and just maintenance of the State University and the Agricultural and Mechanical College, in addition to our other educational institutions. Texas, in her rapid strides toward leadership in the federal union, cannot lose sight of the importance of having the alma mater of her future statesmen, scientists and men of art, at home, under her own wise and judicious control.”

As for the demand of the San Antonio convention that “ the University and its branches be properly endowed and maintained,” it may be simply gratuitous

or a political catch, as it stops short of adding "by the State," and the attorney general, who is at the head of the ticket, for governor, is known to have held, and the convention it is to be assumed was aware of the fact, that legislatures claim no power to appropriate money out of the general revenue for the support of the University. As a writer in the *News* has expressed it, "the liberality of the convention presumably was expressed under full knowledge that the constitution requires the University to be supported, if at all, by the interest and profits derived from its permanent fund of bonds and lands. This then commits the Democratic party to an increase of the interest bearing and rent producing permanent fund, of the University, or the University people have been deliberately deceived, and the platform promise, which Mr. Hogg is understood to have personally formulated, and which at any rate he has indorsed, is to be repudiated." * * * * *

"It has been suggested that the University would get along if the regents were given entire control and management of the branches, as well as of the University lands. The regents could prune the branches of unnecessary and exuberant expansion, and more evenly and symmetrically divide the aggregate income. If this be denied them at the promptings of jealousy in the collegiate family no one will reasonably object to control of the lands on the part of the regents. The 2,000,000 acres should yield a sufficient income. Every endeavor of the land department of the State to utilize the lands has failed. The regents are content if not anxious to assume the task of leasing and selling the lands. They surely could under existing laws force those who are using them to pay for the use. It is understood that the nominee for land commissioner and the inchoate governor favor the experiment. It is in line with the new order of things, too. A commission of regents, with the legal and assumed powers of the old land board to legislate, to adjudicate and execute commission laws, might be a great improvement on the state land office restricted to statutory powers. Such a commission should be fully competent to reclaim the lands from free graziers and dispose of them in a way

to yield a large university revenue, and this is as far as the platform seems at all feasible."

As to Gen. Hogg, it is believed that whatever may be his views on the question of appropriations for the University from the State's general revenue, he is friendly to the institution, and will at least not oppose further land endowments for the University, as well as the College, so as to produce greater revenues for improvements, and would be willing to have the University lands turned over to the exclusive control of the regents. The nominees on the ticket which he heads for governor, and which is certain of election, Charles A. Culberson for attorney general, Wm. L. McGaughey for land commissioner, John D. McCall for comptroller, Wm. B. Wortham for treasurer, and H. C. Pritchett for State Superintendent of Instruction are all understood to be quite friendly to the University.

As to Governor Ross, his views as to the University while State senator and governor, are presented further along in this history.

Governor Roberts' views have already been given.

DIFFICULTIES ENCOUNTERED.

The unfortunate fact as to State Universities generally is, that despite the policy of the States in founding them (sometimes liberally enough at the outset) they have for years afterwards to struggle against the whims of legislatures, and radical changes in government, for that moral recognition and financial support which are necessary to the development and success of such institutions. In Texas this has been but the legitimate consequence of the State having charge of the University lands and all its material resources, while at the same time nominally controlling conflicting interests of the University branches and other educational interests which, on account of jealousy or some mistaken policy, are strained into conflict with those of the University as an entirety of body and branches. This is the great difficulty with State management.

The trouble in agreeing upon a location was one of the obstacles at first to the establishment of the

University of Texas, till obviated by a provision of the constitution of 1876, requiring it to be located by a vote of the people of the State. The University too was naturally antagonized at the outset by the denominational colleges established by the several churches, and it was especially unfortunate in being brought into competition with the Agricultural and Mechanical College branch at Bryan, owing to a disposition of the college authorities to broaden and popularize the studies of the College by approximating them as near as possible to the university standard, so that students seeking higher education would be attracted to the College as strongly as to the University.

This policy of the college directory seems to have been justified, no matter how it affected the University, if the conclusions in a recent faculty address by ex-Governor Roberts, now a law professor of the University, are correct. Prof. Roberts says:

"The law of congress, in making the college donation, did not exclude other branches of learning, but left that to the convenience and discretion of the State in organizing and directing the operations of the school. The State has exercised that discretion, by providing in the constitution of 1876, that it shall be 'a branch of the University for the instruction in agriculture, the mechanic arts, and the natural sciences connected therewith.' Here is a specific direction, as to what should be taught in that institution, and, that it was so intended is manifest from the fact, that the constitution made it only a branch of the University of Texas, whose general objects were declared to be 'for the promotion of literature, and the arts, and sciences, including an agricultural and mechanical department,' and then expressly indicated what learning should be taught in that branch or department of the University. If some learned member of the legislature would take trouble to examine closely the curriculum, or course of study of the agricultural and mechanical branch, and that also of the Normal School, and compare them with that of the academic department of the University, he might well conclude, judging from them, that the legislature had put up, or rather had allowed to be

put up, three universities instead of one, for the general collegiate education of the youths of this State. This is not referred to in opposition to those schools, but rather in favor of them. For the best results are to be attained in those schools, as well as in all others, by their being confined to the special objects of their creation. It is the business, as well as the duty of the legislature to look to that matter, in regard to all of the schools of the State made so by the constitution."

President James, in his report to Governor Roberts, stated the origin and policy of the College, as follows:

"Wisely recognizing the intimate connection between industrial pursuits and National and State development, the laws, Federal and State, by which this College was created and endowed, contemplated for its object 'The practical and liberal education of the industrial classes,' and the consequent development of our material resources. The Federal Act of July 2, 1862, expressly provides that all revenue received from the land grant therein made 'shall be inviolably appropriated by each State which may take and claim the benefit of this act, to the endowment, support and maintenance of at least one college where the leading object shall be, without excluding other scientific and classical studies, and including military tactics, to teach such branches of learning as are related to agriculture and the mechanic arts, in such manner as the legislatures of the States may respectively prescribe.' Texas formally accepted the gift with its conditions, and by its constitution of 1876, made this College (which had already been established by act of legislature, April 17, 1871,) 'a branch of the University of Texas, for instruction in agriculture, the mechanic arts and the natural sciences connected therewith.'" [From report, 1882, of John G. James, president A. and M. College.]

The agricultural and mechanical branches of the College had both been put into operation in June, 1852, but, as stated in the college catalogue a year or two later, "while the mechanical was interesting and successful, the agricultural did not attract students, on

account of too much time being consumed in un-instructive manual labor, such as picking cotton and mending roads—without compensation.”

To remedy this the legislature was asked for \$100,000 for improvements so as to enlarge the scope of such instruction and granted a sufficient part of the amount to bring the institution up to something like its contemplated agricultural as well as mechanical standard.

The regents of the University unfortunately, too, caused dissatisfaction, by not electing Texas applicants to the University professorships, thereby making enemies of the applicants with all their wide circle of influence in the church colleges and the public high schools of the State. Whether this was a mistake or not in the case of the Texas University, it is generally true that only certain qualifications of applicants from other States are communicated, and their demerits are naturally avoided in the partisan recommendations of their friends, while on the other hand home talent is subjected to the severest scrutiny and spiteful prejudices are excited and unreasonable objections invented against Texas applicants. Thus it may be that the really more meritorious home applicants may in some instances have been rejected, and Texas professors have been not without preferment save in Texas, and in this way the regents here, as in other States doubtless, have made some mistakes in their appointments. What many considered high salaries established for the professors (\$4,000 each) also caused dissatisfaction, as evidence of extravagance which the masses of the people were not disposed to countenance despite the plea that they were necessary to attract professors of eminent ability to Texas. The expenditure, too, of some \$20,000, almost at the outset, for chemical and physical apparatus was regarded as too extravagant for a new institution with limited resources.

There were other causes than those which have been alluded to, operating at Austin against the University, which were sharply referred to by a correspondent of the *Galveston News* as follows:

“THE WAR BETWEEN THE UNIVERSITY OF TEXAS AND ITS
BRANCH AT BRYAN.”

“AUSTIN, March 8, 1885.—At Austin there are several causes of enmity to the University. The first evidence, which is matter of record, is contained in Governor Ireland’s message, at the opening of the Nineteenth legislature. That document refers to the use of the available fund of the University without biennial appropriations of it by the legislature, and the law, fixing the terms of office of the regents for more than two years, as unconstitutional, and yet not a word with reference to the use of the available fund of the A. and M. College without such biennial appropriations, and not a word concerning the law fixing terms of office of the directors of the College at more than two years. That message has much of taffy for the College, and alludes to the University in a way to indicate that he had taken great pains in selecting regents, but that silence with respect to their management was all he could afford.

“Then comes the A. and M. College report, in which the chairman of the faculty and the president of the directory, by a remarkable coincidence with the governor’s favorable consideration, both ask for \$100,000 for the College, including a big slice from the University fund. Following this, the president of the College directory (State Senator Pfeuffer) produces a University bill, entitled “An act to perfect the University of Texas,” which if adopted would close its doors as a University, though they be re-opened with a so-called faculty, selected by the new board of politicians, the bill proposes. This faculty would be chosen from the class of cheap statesmen; for the University fund, would, if scattered as the bill provides, not be sufficient to secure educators, or even influential political servitors at the parent institution. It would no longer be a University, but a poverty stricken hospital, for the broken down political hacks and disabled office holding veterans. Nothing less than the practical suspension of the University would please two or three classes of its enemies, but this the politicians would not per-

mit, for in controlling and distributing its funds, as long as it might exist, potent influence upon appointments and senatorial elections is kept alive. Still it is insisted that the College branch is more important than the University trunk, and an open fight being abandoned, it is now sought, by means of the district college bill, to destroy the University by a raid upon its financial resources."

THE STATE GRANGE AND THE UNIVERSITY.

This same correspondent, with an evident sharp eye, on the astute Texas governor, thus hints at an effort to array the State Grange against the University, or more properly perhaps to secure the Grange's influence for the governor, for United State senator, in exchange for the governor's influence to have the office, hinted at, created: 'There is a growing conviction in the legislative mind that the onslaught on the University, has some ulterior and unworthy motive; that in fact there is a bug under the chip. This notion will gain ground by the following circumstance: 'Yesterday there was a kind of Grange committee met here, and while the people were laying the corner stone of the capitol, this committee was engaged in a plan to steal the corner stone of the University fund.' This lay-out wants to commit the State Grange to hostility to the University, but the real object, it is believed, will be found to be the creation of a new office in connection with the Bryan College, which the master spirit in this movement expects to occupy and enjoy."

This scheme, however, whatever it was, doubtless failed, but it is remarkable that Governor Ireland took singular occasion on the last day of his administration, to appoint the president of the Grange (Col. A. J. Rose) to be a member of the University regents, though that gentleman, now president of the board of directors of the A. and M. College, was known from his published views to be not only partial to the A. and M. College, but prejudiced against the University. It is but just to Governor Ireland, however, to add that the appointment may have been for no other purpose than to have

the College strongly represented on the University board.

Mr. Rose was one of those who contended that the "College was more entitled to the countenance of the farmers than was the University." As a fact, however, as many farmers' sons attend the University as attend the College.

RIGHTS OF COLORED STUDENTS.

Another apprehended trouble to the University was alluded to by the same correspondent as follows: "Without reference to the present needs of the University, it is well to consider what trouble the colored people may give. They have the right to enter at the Bryan College and at the University here—more especially at Bryan; for that College is supported by a National endowment, so that it might be well to consider the propriety of making the A. and M. College the colored branch of the University, for teaching agriculture and mechanics, and transferring the literary and other college departments to the main University at Austin. This would solve the colored problem, and is under serious consideration."

Such a change, apart from possible local objections at Bryan would doubtless be accepted as a good thing for the College, as well as for the colored people. The College faculty might be incorporated with the University faculty at Austin, and in order to give them employment a first class technological school might be started as a branch of the University, somewhat on the plan of the science and engineering schools connected with northern universities. Since it is a mistake as a rule to establish university branches, away from the parent institution with the exception perhaps of medical branches which may reasonably be located with some reference to clinical and dissecting advantages, it would probably be better not to change the colored branch, but remove the Agricultural and Mechanical College with its entire outfit to Austin, provided the college grounds and buildings at Bryan, can be sold to advantage or used by the State for other good purposes.

As an evidence of the disposition of the colored

people of the State seeking recognition of their interests in the matter of public education, the following communication was addressed to the Twentieth legislature, in January, 1887:

"To the Senate and House of Representatives of Texas in Legislation Assembled:

"PREAMBLE AND RESOLUTIONS."

"Whereas, The colored people of the State of Texas stand greatly in need of scientific instruction in agriculture and industrial arts, and are shut out of all means of acquiring such knowledge; and

"Whereas, The constitutional convention of 1876, composed of such distinguished citizens of our State as Hon. L. S. Ross, present executive; Hon. Fletcher S. Stockdale, Hon. John H. Reagan, Hon. W. P. Ballinger, Hon. George McCormick, Hon. Marion Martin, Hon. C. S. West, Hon. John Henry Brown, Hon. N. H. Darnell, and a host of other distinguished citizens, authorizes and directs the legislature to establish an agricultural and mechanical college, so that the colored people might acquire such knowledge; and

"Whereas, The Fifteenth legislature recognizing the necessity of such an institution, and in pursuance of their constitutional duty, did pass an act entitled 'An act to establish an agricultural and mechanical college of Texas for the benefit of the colored youths, and to make appropriations therefor.' (Chapter 92. Approved August 14, 1876.) Therefore, be it

"Resolved, That the present legislature is earnestly requested to make the necessary appropriation to carry into effect the provisions of the law of 1876.

"Resolved, That the senator and representatives from this district be respectfully requested to use their best exertions to secure the passage of a suitable appropriation to put into effect the law establishing an agricultural and mechanical college for the colored youths of this State.

"DAVID GOODIN,

"President.

"C. J. WARING,

"Secretary."

[Referred to the Committee on Education.]

QUESTION OF REMOVAL OF THE COLLEGE.

As to placing the colored branch at Bryan, which would have to be done by a vote of the people of the State, since their vote has designated Austin for its location, the change would have the advantage of at once inaugurating the colored school in the buildings and ample grounds of the Bryan college, and much nearer to the Colored Normal School at Prairie View, than is Austin. The federal land endowment to the college, too, might, by amendment of the act of congress, be transferred to the colored branch at Bryan, which would accordingly take the place of the college, with its grounds, buildings and landed endowment, as an agricultural and mechanical college, and branch of the University, and the college, with its board of managers merged with the University regents, and its faculty and apparatus transferred to Austin, could be incorporated as a strictly science school, or technological branch of the University. As to the military feature of the college, it might well be dispensed with, by constitutional amendment, or retained at Austin, as well as at Bryan, either, or both, as the vote of the people might determine. Some such arrangement would doubtless be acceptable to a great majority of the people, white and colored, though in face of the opposition likely to be encountered by local objections from the people of Bryan.

Another solution of this matter and one which the State can well afford in order to harmonize the claims of the colored people for university education would be to turn over the entire outfit of grounds, buildings, apparatus and endowment of the college to establish a State colored university at Bryan, including the agricultural and mechanical, and even the military feature if desired and make it an entirely independent State institution, transferring the college faculty for new work in a technological school of the University at Austin and providing for a new corps of teachers for the colored university at Bryan. The military feature at Bryan, and the agricultural, mechanical and military features at Austin; one or all,

might be dispensed with or not as a vote of the people on submission of the several propositions might determine. Thus respective universities for the colored and white people, to be fostered by the State, each as their necessities might require, would be harmoniously established, and grand opportunities would be afforded for individual munificence to co-operate with the State in the further endowment of the two institutions, as inclinations of the donors for either or both dictated. The fact is that a colored branch of a university mainly devoted to the interests of the whites, has come to be about as incongruous, as would be a branch for whites attached to a university mainly devoted to the interests of colored people, if for no other reason than incompatibility of associations. But for the sake of conciliation under the reconstruction policy and methods of State rehabilitation it is more probable that a State colored university than a colored branch would have been established.

A very fair solution, probably for reconciling the conflicting interests of the college and the University, would be something like a bill introduced in the legislature by Representative McGaughey, of Hood county, to increase the land endowment of the college to an extent that would serve as a compromise, in lieu of any future appropriations for the college from University funds. The State might well, too, go further and settle the question of removal of the college, by making it an entirely independent institution, every way separate from the University.

The evolvment of new organizations, by changing locations, as well as other relations, is not without precedent in the history of educational institutions in the South, being the result of changes in the policy, or developments of the country, or some other cause, such as considerations of health, or injudicious locations. So the removal of the college branch of the University to Austin should be well considered before further large expenditures are made at Bryan.

As some writer has expressed it, the University of Virginia is "the lengthened shadow of Jefferson," and it may be that the man is now living who will, as nobly

and effectually as did Jefferson, project his own shadow far down the future, either by his work and influence in this direction, or enlarged munificence in some way in behalf of the University of Texas. Certainly there is grand opportunity for distinction for some one to perfect a combination to bring the University and its branches in more harmonious relationship, now that time has developed the fact that original plans need to be changed, by more systematic and suitable arrangements for their consummation.

As in any other business, time is required to develop educational exigencies and proprieties. It was not till up to a hundred years ago, as illustration, that girls were admitted into the public schools at Boston, or probably anywhere in the United States, and it is not to be expected that any educational methods can be at once perfectly devised to meet all contingencies. In the case of the colored branch for the Texas University it was, as is well known, to have been established in response and deference to general public sentiment, in behalf of the freedmen of the State. But while, as a matter of policy, incident to the war, this was then naturally to be expected, the branch establishment is no longer as desirable doubtless, in the estimation of the colored people and in acknowledgment of their claims, as would be the organization of an independent university, either at Austin or Bryan, for the highest possible education of their children. As to the college outfit at Bryan, local opposition there might be fairly reconciled, or more than compensated to the people of that section, in case of removal of the college to Austin, and without agitating a changed location of the colored branch of the University, or the establishment of a colored University, by having the State to provide for some other use of the college property, and establishing an even more important and advantageous institution there in the interest of the people at Bryan.

The State might utilize the grounds and buildings, with the purchase of additional land, for a convict cotton farm and factory; or what would perhaps be fairer and more important for the Bryan people, could well afford to give them the college grounds and build-

ings for an educational establishment of their own, or to use as a bonus to secure a cotton factory for their own account. At all events, a great State like Texas is capable of compassing such interests in some satisfactory way, and should not shrink from the solution of any problem of important concern in her educational policy, whether affecting the college or the University.

As to the reorganization of educational institutions, it has been found advisable and successful in numerous instances; and in some cases a change of location has been necessary to promote their success, as in the case of Randolph-Macon College, Virginia, which was located in Mecklenberg county, in that State, with reference to accessibility from North Carolina, as well as Virginia, but had to be removed after the war to Hanover county, to prevent its absolute decadence and failure.

The great scheme of Chevalier Quesnay to plant in Richmond, as the capital of Virginia, a French academy of the arts and sciences, with branch academies in Baltimore, Philadelphia and New York, grew out of the French alliance with the United States, and what was so fancifully known as the French academy at Richmond, was really the basis of Jefferson's scheme for the University of Virginia. Jefferson favored the Quesnay project, by allowing his name to be prominently associated in it with Quesnay's. "Indeed," says Dr. Herbert Adams, in his monograph on 'Jefferson and the University of Virginia,' for the United States Bureau of Education, "Quesnay's idea was similar to that afterwards cherished by Jefferson himself, when in 1790 Jefferson began to correspond with George Washington about the feasibility of removing bodily to Virginia the entire faculty of the Swiss College, of Geneva, which was thoroughly French in its form of culture." And yet Richmond was not made the seat of the University, as Jefferson changed his attention to the development of his alma mater, William and Mary College, into a State University. Finding it impracticable, however, to thus develop an ecclesiastical institution, like William and Mary, his next ambition, as he proposed to the legislature, was to transfer the

Geneva College to Virginia, and he appealed to George Washington for support of his scheme. But Washington favored a national rather than a cosmopolitan university, and objected to the importation of a faculty of foreign professors not familiar with the language and policy of our government. It was eventually, the Albemarle Academy, established near Jefferson's home which was finally developed into the University of Virginia, after its name had been changed to Cential College.

In 1817 Mr. Mercer introduced his bill in the legislature to establish the University of Virginia, based somewhat on the Jefferson plan, though not satisfactory to Mr. Jefferson. The bill, which was rejected, provided for several State colleges, as Governor Ireland once proposed for this State; and as a notable feature for that period, authorized the acceptance of the Anne Smith Academy "for the education of females." Jefferson's final proposition was for a Central State University, to be located "in a central and healthy part of the State," making two suggestions as to locality—one leaving the question to a board of education, and the other specifically providing for acceptance of Central College and buildings for the site and establishment of the University.

At one time it was proposed to move the old William and Mary college of Virginia to Richmond, and but for the opposition of Jefferson on account of conflict with his University scheme, the change would probably have been effected. The people of Richmond were strongly in favor of the removal, and it would have been, says Dr. Adams in his history of the college, "a fortunate thing for the college, for the University and for the State at large, if all interests could have been united." Its friends were nearly all agreed that the change would have been the salvation of the college which is now in a state of caducity, without students, or professors, save its venerable president Ewell, and maintaining only the barest semblance of organization by the formal opening of its doors every academic year so as not to forfeit its charter, and to keep it in line for any opportunity that may happen to re-

vive its fortunes. A highly interesting allusion to this fact will be found in Dr. Adams' sketch of William and Mary college for the United States Bureau of Education 1887. *

There remains yet another argument in favor of the removal of the college from Bryan to Austin—the advantages over a town, much less a village, which a large city and especially the capital of the State affords. In the preamble to the act passed in the reign of Queen Anne in 1705, when Williamsburg, Va., was founded, it was declared as one of the motives which determined the location of the city: "It will prove highly advantageous and beneficial to the Royal college of William and Mary to have the conveniences of a town near the college." Alluding to this fact Dr. Adams forcibly argues as follows:

"Clearly these early legislators of Virginia were in advance of their age. They believed what the Nineteenth century is just beginning to find out, that a good municipal environment is favorable rather than injurious to the higher education; that the town is more suitable than the country for the growth of a college or a university. The early Virginians had no idea that professors and students should be turned out to pasture like superannuated horses and untrained colts, and expected to feed on grass like Nebuchadnezzar. It is a very bucolic view of the higher education to expect it to flourish in the open fields, apart from human society, away from great libraries, museums, schools, churches, and from all the helpful, quickening influences of municipal life.

"Civilization and culture are, historically speaking, the products of towns and cities. The idea of isolating students from the world is but the survival of the monastic system, which sought cloistered retreats within protecting walls. While society and education owe much to this system, it should be remembered that monasticism is a mediæval and not a modern idea. Indeed, the monastery and the castle were but historic reversions to the more primitive idea of hill-forts and

* Since this was written, the author is advised that the college has received liberal public aid, and is again in successful operation.

patriarchal burghs, from which ancient cities and classical civilization sprang."

As a question of economy, and certainly in the light of experience, it seems strange, that for any other consideration, this State should have established the college at Bryan, or even the medical branch at Galveston, away from the parent institution at Austin, where, by concentration, all would have the advantages of a general library, museums, laboratories, dormitories, mess-halls, lecture rooms, and chemical and physical apparatus, in common, without the enormous expense of duplicating or triplicating such essentials for the several branch institutions, when scattered over the State. The proposition to separate them was strenuously advocated, among others, by Gen. Darnell, a prominent member of the State convention of 1875, with other able men of the time, who seemed to consider universities institutions "mainly for the benefit of the rich." It was as earnestly, but unsuccessfully, contested by such men as Col. Wigfall, Judge Terrell and Gen. Ross (now Governor Ross) and perhaps others equally zealous and prominent in the matter.

There is no question that it would save the State a great deal of future expenditures to have all the branches of the University centered with the main establishment at Austin. This is stated as a general principle, and not because the parent institution happens to have been located in that city.

THE UNIVERSITY AND THE STATE.

The University regents are but an anomaly without regency powers, except as circumscribed cashiers, so far as concerns the University's finances, and as will be seen further along, their duties are still more circumscribed and anomalous as to the University lands. As to the faculty, even that has not escaped the iron force of the executive mandate, nor the University itself the mischievous effect of adverse rulings by State officials. Almost at the very outset of his official duties, the first chairman of the university faculty was summoned before Governor Ireland to know why students, not over

half a dozen, from other States, were being admitted free of tuition fees, the same as Texas students were admitted; and on another occasion the professor of chemistry was taken to task for proposing to charge for some analysis in which the State chanced to be interested.

Governor Ireland afterwards, in his address at the University's inaugural exercises, explained his position as to admitting students from other States as follows: "Some question has been raised about receiving students here who are citizens of other States. In the infancy of this school and while the faculty had but little to do, there can be no valid objection to receiving such students upon their paying fair tuition and other fees. But this even would not be desirable if Texas could fill the University with her own children. Texas and Texans are liberal. They are munificently liberal to our own people and reasonably liberal to the people of other countries. But by no theory or reasoning can any one who is a citizen of some other State claim the right to enter here on the same terms with our own people. No reasonable person will so contend for a moment. We propose to educate our own boys and girls. On this point, however, our people are by no means an unit; but none are so visionary as to contend that we must give free education to citizens of other States."*

In the matter of the analysis referred to, the governor claimed to be merely exercising his right as the executive of the State, to call attention to what he considered an error as to the management of a State institution.

As to the effect of State officials' rulings, it so happened in 1882, when the institution was in sore need of funds to put it into operation, that the then State comptroller (Mr. Brown) held that a certain large amount in the State treasury (over \$80,000) belonged to the University's permanent fund, and consequently was not available for the University's organization, while his successor (Comptroller Swain) ruled directly to the contrary, and had it transferred from the perma-

* The question as to admitting students from other States was suggested to Governor Ireland by a newspaper correspondent, and otherwise perhaps would never have attracted the governor's attention, and really should never have been noticed.

ment to the available fund, so that it could be applied for the purposes desired.

The regents are not allowed to control even what is called the "University's available fund," made up of interest on its bonds and on notes given for University lands. The legislature dictates appropriations from this fund, simply to be applied by the regents to the uses dictated, leaving them no discretion as to the most needed channels for the appropriations, either as to the University or its branches. Thus the legislature directs not only how the money shall be applied, but can, if it chooses, divert every dollar of the University's available resources to any one or all of its branches, no matter what may be the necessity of the main establishment; and thus it is, the distribution of the fund arbitrarily by the legislature itself is a source of bitter and often partisan contention in the halls of legislation between the regents, in behalf of the necessities of the main department at Austin, and the advocates of some times extravagant demands for the Agricultural and Mechanical College, or branch at Bryan; and latterly the possibly premature demands of the Medical College, or branch at Galveston, as indicated in the regents' third biennial report (1888) under the heading "The Medical Department," and referred to in the message of Governor Ross to the legislature as follows:

"While we feel a laudable ambition in the possession of a University of the highest grade, as was clearly contemplated by its founders, and the requirements of the organic law, yet in view of the fact that it is dependent in its operations upon such revenues as may be derived from its permanent funds, and looking at the matter from a purely business standpoint, it is my deliberate judgment that it is not only violative of sound business principles, but extremely hazardous to its permanent growth and standing, to continually enlarge its scope beyond its available revenue upon hopes and expectations so apt to prove delusive and unsatisfactory. Its present insufficient revenue affords the board of regents, who are laboring so patriotically and unselfishly in its interest, much good reason to impeach the wisdom of the scheme for the establishment of the

medical branch at Galveston, to be run on a starvation plan, while putting the University upon still shorter rations. This mode of applying its revenues certainly discredits good business judgment, and seems to be the profusion of the prodigal rather than the judicious generosity or justice which confers real and lasting benefits."

The contention with the University has been especially notable for years as to the college at Bryan, a rather abnormal branch, as already noticed, in having its board of control, entirely independent of the University's and pressing their special demands for the college, in opposition to the claims of the regents for other university interests.

At one session of the legislature, as an evidence of the partisan spirit engendered, one of the members (Mr. Henderson of Lamar), in violation of the rules governing such bodies, rose from his seat while the vote was being taken for an appropriation for the college from the University fund, and exclaimed, "Remember the farmers' college!" On another occasion, a prominent representative (Mr. Bell of Cooke), declared in a violent speech, assuming the power of the legislature as argument against appropriations for the University, that "the legislature could refuse to make any provision whatever for the University and starve it out of existence, or demolish it by tearing down its walls and leveling it to the ground."

In the Twentieth legislature, in 1888, when the simple question involved in discussion was the repayment of University funds used by the State for other than the purposes of the University, a proposition which was so plain to the senate as to induce that body to pass its bill appropriating over \$200,000 to repay the money with interest, it was astounding to hear the McLennan representative (Mr. Prendergast), plead that "the State did not owe the University a cent, it being," he argued, "a case of justified diversion of funds intended for one purpose, but changed to another by subsequent enactment." This was certainly a strange argument, that diverting the funds from their original object, and trust funds at that, justified taking them

without creating any obligation to restore the money. The argument, however, seemed to have its effect, at least in the house, which voted "*a loan* to the University" giving the appropriation that designation to avoid admitting that the claims of the University constituted any debt of the State, and yet requiring that the loan should be in full settlement and satisfaction of all claims of the University against the State. *

The fact is that the attitude of Texas legislatures generally, as to the University's claims, presents some remarkable displays of political tergiversation. First, it is noticeable that the State, while providing for the return of the funds which it used, invariably stipulated (with itself of course) that the money should be replaced without interest, thus using the funds upon its own sovereign terms, regardless of the right of the University to interest, as the legitimate fruit of its sources of revenue.† So some members contended that even if the old claims of the University were countenanced at all, only the principal should be allowed, as the State was not only sovereignly exempt from paying interest, but had absolved itself from all obligations to do so, by the express terms of the appropriation,

* Mr. Bell is not the only one to suggest the iconoclastic powers of legislatures to trample upon shrines of learning; and the legislature of Texas is not alone in disregard of the sacred trusts of educational funds. In Virginia, in 1818, when the first appropriation was made for education, the house of delegates at first favored "a small appropriation from the literary fund of the State for the education of the poor, and the rest of the fund to the payment of the debts of the State."

"In Wisconsin," as cited in the history of the University of that State, "the denominational colleges sent up petitions asking that the university fund and its income be divided among them and the State University be abandoned. Many names were attached to these petitions, and the local press favored the measure, until a pressure was brought to bear upon the legislature that was almost irresistible; and on the 19th of March, 1855, a member of the board of regents (elected to the legislature on the 15th) introduced a bill into the assembly to repeal the charter of the University, distribute its funds, and give its income to the denominational colleges in the State." (Carpenters' Historical Sketch of the University.)

† Act of January 31, 1860, authorized the use of the \$100,000 United States bonds to meet appropriations "for frontier defense"—"the amount used with interest accrued and accruing shall be replaced and paid back to the University fund without interest."

Act of February 8, 1861, appropriated \$25,000 for similar purposes, out of United States bonds in the treasury arising from sales of University lands, "and the amount so paid shall become a charge against the State; and be returned to the University fund without interest, when the condition of the treasury will allow."

albeit these terms were such only as were fixed by the State itself without assent from any other representative source on the part of the University, so that the University was not then fairly a party to the act. Thus while willing to allow the principal, they objected to paying the interest, the enormity of which by long years of accumulation had a good deal to do no doubt with the sovereignty of their convictions in the matter. Still it is no reason because one legislature unjustly stipulates with itself against it, that another should not be just and pay interest, as do individuals for the use of money; but such seems to be the way with legislatures in too many instances.

These may be extreme illustrations and even rare exceptions as to the influences affecting legislation as to State Universities. Still, the picture is not overdrawn as to the powers of such bodies when badly influenced; and in some instances perhaps fairly reflects the disposition of many who have figured in Texas politics.

Editorials in the *Statesman* thus forcibly alluded at the time to the strange state of affairs existing between the college and the University:

“WHOSE UNIVERSITY?”

“There are several propositions before the legislature, which it is hoped the members will rise to the dignity of considering upon their merits, and in that patriotic spirit which should characterize a body of men delegated by the people to act for them in a sovereign capacity, and not, as the representatives of any special interests, to the detriment of the general welfare. Certainly it is not the province of a legislator because he happens to be a farmer, to insist that a branch of the University, because it alone is assumed to be, par excellence, a farmers’ institution (which seems to be the assumption as to the Agricultural and Mechanical College) must be sustained at all hazards to the University. The question is not what the farmers alone want, but what is best for all classes. If a farmers’ college was all the people desired they would never have established the University. But they wanted some-

thing more than such a college, as is evidenced by their munificent endowment, intended for its support, and not for diversion from its management in every conceivable channel which whimsical legislation, to serve special interests, may suggest.

"The trouble between the two institutions originates from the rather abnormal fact that the college got into operation before there was sufficient university fund to organize the University and was made a branch of it in order to draw upon the university fund for its support. But is it right to allow this to continue after the University has been started, and, independent of the question of other rights, needs its fund for its own support to finish its own building, while the college has its buildings completed, and a special endowment besides for its maintenance? Is there no limit to the demands of the Agricultural and Mechanical College? And must the legislature meet these demands under the partisan appeal of its being 'a farmers' college?' Is not the University the farmers' university as much as the college is the farmers' college? And what is more, is not the University the heritage of the whole people, including of course the farmers as well as other classes? Because a farmer's son may be taught farming as a specialty at the college, is the University, where the same son may be taught so many other things quite as useful as instruction in farming, any less a heritage, for the boasting of the farmer, than the college?

"Why not make the welkin ring with as loud 'huzzahs' and 'hurrahs' for the 'farmers' university' as for the 'farmers' college?'"

It may be further argued, that if, under the constitution, general revenue cannot be used for buildings and other improvements for the University, but can be used for any purpose for the college, and thus indirectly for the University, as the college is a branch of the University, it would seem but common justice, either to support the college exclusively from general revenue without trenching upon the university fund, till the other branches of the institution, as the college has been, have been established; or to use general rev-

enue instead of university funds for their establishment. It should not be "justified diversion," except under the most extraordinary emergencies, to take the university fund, or any trust fund for any purpose, for which general revenue may be appropriated, or for other than the objects for which the trusts were created. The University fund was intended to establish other branches besides the college, and as the college has had its benefits from the fund, it should take its turn, and wait for the establishment of the other branches, so that all the objects for which the university trust was designed may be accomplished. It were better perhaps to discard mere abstruse technicalities of construction, and let the college, the free schools, and the University, all have the benefit of appropriations from general revenue when it has the funds to afford them. Their special endowments should not be a perpetual bar to any aid it may be desirable for the State to extend to them in lands, money or bonds. One generation is not expected to legislate for all time for future generations, and even organic laws have to be changed to meet new conditions.

"THE ALL AROUND OUTCOME.

"Some weeks ago, the *Statesman* charged that a deal had been made between the Agricultural and Mechanical College, and the advocates of the medical branch of the University. This deal, or bargain, was to the effect that, for the support of the Agricultural and Mechanical's friends in getting \$50,000 to establish the medical branch at Galveston, all the influence Galveston could muster would be thrown in the breach to get as much money as possible for the Agricultural and Mechanical College; to make the university fund contribute more than its share, and then bleed the general revenue for \$20,000 more to erect other buildings for the Agricultural and Mechanical College. This scheme went along beautifully till it came to the senate, when it was incontinently knocked in the head. But in the free conference committee of the two bodies, it again came to the front. In that committee, Col. Claiborne, Galveston's senator, showed his hand.

He left his four brother senators and voted every time with the five house members, cutting out every amendment but two, that the senate had made to the appropriation bill, even sacrificing the appropriation to furnish the new capitol, that Claiborne had fathered in the senate, and that had been added to the bill by the senate. In this action Senator Claiborne could have been actuated but by one motive—the success of his pet scheme of having the medical branch of the University at once established at Galveston.

‘The senate had changed the appropriation of \$50,000 and given it with the accrued interest on the university’s claim, amounting in all to \$88,000, back to the university fund where it properly belonged. When this item was reached in the conference committee, Senator Armistead, backed by four of his brother senators, Frank, Glasscock, Jarvis and Simkins, took the firm stand that there was a senate connected with the Twentieth legislature and positively affirmed, despite the threat of the house, to adjourn, without making any appropriations—that the senate would not consent to let this \$50,000 go to the medical college, unless the \$38,000 interest should be given to the university fund. This being agreed to, the majority so reported to the house, but a minority report cutting out both of these appropriations was also handed in to the house, adopted by that body, and later adopted by the senate. Senator Claiborne, and Colonel Gresham, the Galveston member in the house, played too sharp a game. They counted upon more influence than they could control. The A. and M. College people had landed their fish and deserted the medical fellows at the last moment. The medical branch lost its \$50,000, and the old debt due by the State to the University is still outstanding. In addition to this defeat, these gentlemen have the mortifying consciousness of knowing they have cut down really meritorious appropriations and deprived the capitol of its new dress for two years to come.” *

* Alluding to items in the general appropriations for improving the capitol grounds and furnishing the new State house.

RETROSPECT AND PROSPECTIVE.

So far, the retrospect has shown remarkable struggles on the part of the advocates of higher education to get the University into operation; how they have had to combat normal as well as abnormal conditions in the development of the country in order to overcome popular prejudices, not only in the minds, but in the affections of the people for the free schools as home institutions, and pets of the politicians; and how possibly, but for the influx and influence of educated men with more advanced ideas and experience as to the benefits and effects of university education in the older States, the hopes of the founders of the Texas University, with all its grandly planned endowment, might not even yet be realized. Much has been accomplished to dispel the mists of prejudice and open a bright prospective, but much remains to be done to keep step to the music of educational progress, and the grand march of this Empire State in political importance. Still as it is, and has been, and may be, there is glory enough in the history of education in Texas to kindle a spirit of pride in the establishment of the State University, and light up the future with bright anticipations of the time when all prejudice to higher education, if any yet lingers in the hearts of the people, will be removed and every true Texan will feel genuine pride in claiming, "This is my own. my Texas University."

CHAPTER II.

THE UNIVERSITY'S RESOURCES.

THE UNIVERSITY ENDOWMENT.

For a long time there seemed to be an impression in the minds of some members of the legislature that the second million, making something over 2,000,000 acres of land altogether, including the fifty leagues, donated to the University, was intended at the time of the grant of the last million acres, as a satisfaction of all claims by the University against the State, and consequently they were unwilling to admit that the legislature was under any obligations to return the money, which had been diverted from the university fund for the State's general revenue purposes. Mr. Steele and some other members of the Twentieth legislature, who opposed the University having any further favors from the State, made this point, claiming that such had been the understanding with friends of the University, either in the house or the senate committee on lands, or education. They were never able, however, after the most diligent rummaging, to find anything in the records to substantiate such statement, but, as already stated and referred to further along, they did succeed in having such a declaration incorporated, for all it is worth (?) in connection with an appropriation for the University, by declaring the amount allowed to be "*a loan*, in full payment and satisfaction of all claims of the University of Texas against the State of Texas." The fact as to this last million acres donation, as the history of the institution shows, is, that the University had never received the full benefit of the State's several university provisions, and that the State's subsequent donations have been only so many restitutions in land and money, so far as they went, but falling vastly short even yet of what rightfully belongs to the University, under the original provisions, made for its endowment. That

donation did not, by over one-half, make good the domain of which the University had been deprived by the State, for, as may be seen by reference to the original grant, and to subsequent legislation, and as the facts and figures demonstrate, the University had been deprived of over one million two hundred thousand (1,200,000) acres. All this had been done while the institution, for all legal purposes, was but an infant, unable to protest against acts that violated not only the spirit of the first constitution, but the intent of other acts, and especially against spoliation of its rights by the constitution of 1876, as that constitution impaired the act of 1858, which had given the University one hundred thousand dollars (\$100,000) of United States bonds, then in the State treasury, confirmed to it the grant of fifty leagues of land, donated by act of 1839, and set aside every tenth section that might thereafter be surveyed for school purposes, under grants to railroad companies (Act of January 30, 1854). There were no laches on the part of the University all this time, because it had not been established, so as to be in condition to assert its claims before the legislature, or other tribunals, and was like a minor, without parent or guardian, save as the State chose to pay any attention to its interests, and such attention as it did take, being too often unfriendly to the institution, or prejudiced by political influences. The University then being in its infancy, and too weak to have its claims presented, much less enforced, and having really no advocate to plead its cause against the imperious will of the legislature, the State used its funds, and diverted its lands at pleasure, without protest in the University's behalf from any quarter. And now, even at this late day, all that is asked is, that the State in a spirit of justice and in the amplitude of its power, with abundant landed and financial resources, make reasonable restitution.

Alluding to these facts in the history of the University, Judge Terrell, in his speech in the State senate, April 19, 1882, on the bill then pending to set aside two million acres of land for the University, said: "Had that law (Act of 1858) not been disturbed by

the constitution of 1876, the University would now (1882) own three million two hundred thousand (3,200,000) acres of land, instead of having to apply to the legislature for a donation which, in effect, would be but so much restitution of its original endowment. At the very time when the effort was made to despoil it of its endowment by a clause in the constitution of 1876 (the effect of which those who made that instrument could not foresee), there was then due to the University one million seven hundred thousand (1,700,000) acres of land. But by the constitution of 1876, all the alternate sections, reserved by the State out of grants to the railroads, including every tenth section given to the University, were appropriated for public free schools, and one million acres only were given for the endowment of the University."

Thus it will be seen that the constitution of 1876 in effect deprived, the University of seven hundred thousand (700,000) acres, which it then owned under existing laws and deprived it also of every tenth section surveyed since, amounting to one million five hundred thousand (1,500,000) acres more, subject to further increase as the extended surveys would produce. Another instance of what Mr. Prendergast would call "justified diversion."

So much for the spoliation to which the land endowment of the University had been subjected by the constitution of 1876, the spoliation aggregating as shown over two million two hundred thousand (2,200,000) acres, till reduced by the last million acres donation by the Eighteenth legislature. This action of the constitution of 1876, was clearly in violation of that provision of the federal compact which declares that "no State shall deprive any person of property without due process of law," for the University was now a legal entity, or juridical person, so far as having rights to be protected, and could not, more justly than any other personalty or individual, be deprived of its rights, and heritage from its founders, the fathers of Texas, either by State constitution or legislative enactment. An enactment diverting its fund, being an act of the legislature, is a "process of law" it is true, but it is un-

just, tyrannical and violative of the aims of the federal constitution to protect vested rights of property. However justified the State may be in using the most sacred funds in its keeping in case of such emergencies as war or famine, it is not justified in refusing to make restitution when able. Even under the common law, a father cannot take back or impair a donation to his child. Yet, here was the State, a parent as it were, depriving its own political offspring, the University, of a vast domain, without protest being made, or any sort of legal action being taken for its protection. So much for the University's need of an *amicus curiæ* to guard its interests. Had it been then organized, so as to have had some vital head to act in its behalf, or had some bold friend stepped forward, as in the "Dartmouth College cases," with money to raise an issue in the courts, who knows but that the University of Texas would have become as celebrated in litigation as Dartmouth College? *

TEXAS UNIVERSITY LANDS.

The following extract from an Austin correspondent's communication to the St. Louis *Globe-Democrat*, pretty fairly condenses the facts as to the University lands at that time:

"AUSTIN, Tex., Nov. 18, 1887.—The bad management of the State's endowment of two million acres of land to the State University, is a striking demonstration of the folly of a State controlling the resources of such institutions, instead of entrusting them to the direction of the University authorities. The State has persistently refused to grant the University regents any control of these lands, and as a result of their being still no special concern to the State, they have been for many years a prey to 'free pasturage' for the herds of the cattle barons. Not until lately have the State agents, appointed by the land board, began to look after them, and bring the trespassers to account. In fact, under the State's peculiar land policy, there seems

* It is the opinion of Capt. Walsh, late State land commissioner, that this diversion of University lands to the school fund might have been averted if the people of Austin had been alert and conscious, or even suspicious of the danger of such diversion being made to the prejudice of the University.

to be no way to prevent free grazing on the lands, as long as the parties using them do not inclose them to the exclusion of actual settlers who may elect to purchase some of the lands, and very few lease them, or care to do so, as long as they can be used gratis. This is certainly a strange anomaly in the law, going far to show that the University lands, at least, should be taken out of the control of State legislation, which constantly does the University the injustice of subjecting its lands to arbitrary regulations which cannot apply to them with the same fairness as to school lands, which were selected for their superior location and water advantages, before the University lands were designated.

"The folly of State control of such interests was further strongly demonstrated by the fatuous action of the State land board, which refused to allow the regents, to lease six hundred thousand (600,000) acres of the University lands at five cents an acre, because the board had established six cents as the minimum for all State lands, and would not relax the rule, even in so important an interest as that of the University's necessities, and this, although the University lands were really a separate interest and too small a matter, compared to the immense domain of the free schools, to affect competition for the school lands. Consequently the University was denied thirty thousand dollars annual rental for its lands, without any possible benefit resulting to the school fund. The land boards illogical, if not prejudiced determination, however, seems to have been in harmony with, and to that extent justified, despite its cruelty to the University, by the harsh policy of the legislature to do nothing for the University lands, unless it somehow benefits the school lands; and as a consequence, land donations to the University, stand little chance of success, unless the bills, proposing such grants, make like provision for the common schools. Thus the University suffers, not only by the State's cruel indifference to its interests, but on account of general partiality for the free schools, so that it seems impossible for it to be treated fairly in competition with the schools, as pets of the people, and the great hobby of Texas politicians."

The same correspondent adds:

"And not only this, but the State has paid no attention to collecting, over fifty thousand dollars, (\$50,000), due the University for arrears on land notes' interest, and has used large amounts of the University's land fund, without manifesting any disposition to return the money, which was held by the State in trust for the University. As a result, too, of uncertain grants and bad locations of University lands by State authorities, some of the locations of the University's two million acres, embraced barren sand flats, for which the State is now asked to substitute good lands such as the act of donation contemplated. To this end, some fine locations, in what is known as the 'San Elizario' grant on the Rio Grande and others in the 'Pacific Reservation' have been designated for substitution by Land Commissioner Walsh. It transpires, however, that the title to the San Elizario lands is disputed. The University also claims nine and four-tenth sections of what are known as 'Navigation Lands,' on the ground that the University act of February 11, 1858, did not annul the provisions affecting the University, in the act of February 11, 1854.

"In their report of January 8, 1883, to Governor Roberts, the regents speak of an offer in cash of one million three hundred and fifty thousand dollars, (\$1,350,000), for the first million acres of land donated to the University. They had no authority, however, to accept the proposition, and the land board, it seems, would not or did not make any concessions in the matter.

"The branch for the instruction of the colored youths of the State, is included in the endowment by act of April 10, 1883 of one million acres of land to the University. For the want of available means, however, nothing has yet been done towards the establishment of this branch, but in the meantime, the State has been fairly liberal instead, in making appropriations for the support of the Prairie View Normal School, for training colored teachers, which is located at Hempstead."

THE TWO GRANTS OF ONE MILLION ACRES EACH.

The first million acres of land granted to the University by the Constitution of 1876, was, by act of 1879, located in sections of 640 acres in Crockett, Pecos and Tom Green counties, where they are surveyed in large bodies and are mainly prairie lands more suitable for pasturage than agriculture.

"Of the second million acres granted by the act of the legislature, approved April 20, 1883, there have been no lands either sold or leased. All of this land is therefore in the same condition as the bulk of the land in the first million acres. That is to say, it is not bringing any income to the University, and at the same time, is used by any and every body, without license and without title. After the survey of this million acres, and its location in Tom Green, Andrews and Martin counties, it was discovered that a large part of it was and is almost if not entirely a desert. Upon bringing this fact to the knowledge of Land Commissioner Walsh, he made an exchange of this land for other lands in El Paso county, as stated in the following extract from his report to His Excellency, the Governor of the State: 'University lands amounting to one million acres, were surveyed under authority of the act of April 10, 1883, upon what was then supposed to be the best of the vacant land reserved by former acts. Subsequently in the adjustment of the Texas and Pacific eighty mile reserve and correction of surveys, good pasture lands were discovered in El Paso county, superior in every respect to much of the first selection. On learning these facts, I consulted with the Regents, and through them, arranged for the survey of sufficient of this land to replace what was found of the original survey to be sandy and in conflict. This work has now been completed, and maps and field notes of the blocks returned and filed in this office. It might be well for the legislature to confirm this exchange and restore the rejected portion of the first survey to the reserve. All the land of both surveys is included in the reserve not subject to location,

and therefore the suggested legislation would only be a selection.'"

"This land of the second survey is all in El Paso county, and lies in two bodies. One body contains 488,539 acres, and lies in the northwestern part of the county. The other body of land lies from twenty-five to thirty-one miles southeast of the city of El Paso, and on both sides of the Rio Grande." (Regents report to Governor Ireland.)

This selection stands, as the legislature seems to have deemed the action of the land commissioner sufficient without any action on its part; at least it made no objection to the substitution. There is an adverse claim, as a grant to the Pueblo of San Elizario, to some of the land alluded to, as being 'southeast of El Paso,' on the Rio Grande, and specifically referred to in the report to the regents by the University's land agent, Mr. Williams. Under the facts therein presented, the regents feel assured that the State is clearly entitled to the land, for the benefit of the University.

The regents have to regret that the State has not brought suit for these lands, if for no other reason than to preserve testimony likely to be impaired by the death of witnesses.

THE STATE'S LAND MANAGEMENT.

Every attempt in the legislature failed, which looked to turning over the control of the University lands to the regents, and constituting the regents a corporate body for their management. Governor Ross, like Governor Ireland, did not favor such a proposition, though admitting, in his message to the Twenty-First legislature, that "the history of similar interests in other States showed that it had proven wise and judicious in those States." In Texas, however, he objected, that it would necessitate "a kind of branch land office, requiring agents for the work, as the regents could not attend personally, on account of their private business, to the management of such large landed interests."

In answer to Governor Ross' objections, it may be cited that the regents of the University of New York

control resources of the university and connecting institutions, amounting to twenty three million dollars (\$23,000,000) in value; and that States having universities with landed endowments have all, with the exception of Texas, turned over these lands to their university authorities, and that the University of California is realizing four times as much from its lands under the management of its regents as it did when they were controlled by the State. (See register of California University 1879-80.)

Hon. R. M. Hall, the State land commissioner, in his report to Governor Ross, after citing the facts, as to the difficulty of leasing the University lands, recommended that the regents be entrusted with the work, and made other important recommendations as follows:

"Of the two million acres belonging to the University fund, only 77,437 acres are leased, being a little more than one-thirtieth of the whole, while of the school lands, more than one-fifth are under lease.

"It is desired to call special attention to this, inasmuch as it is evident that without some modification of the terms of the lease of the University lands, very little revenue will be derived therefrom. Extraordinary exertions have been made to effect the lease of these lands under the present law, but up to this time the results are far from satisfactory. The amount of school lands leased, compared to that of University lands, presents a contrast which will not be understood by the public without some explanation. It is perfectly plain, however, when the circumstances are given, that these results were inevitable.

"The school lands alternating with other lands were leased largely by the owners of these alternates. When the present law took effect, the school lands, to a great extent, were occupied by established ranches, whose owners leased promptly. Most of these lands were also in reach of population and sufficiently watered for immediate and profitable use for stock raising. With the University lands, the conditions are totally different. They are located in large bodies and in solid blocks, so that that the lessee is compelled to pay for the whole area appropriated to his use, instead of the

half as in the case with school lands. The University lands are without permanent water, and for the most part too distant from water to be utilized. They are also remote from population. Thus the school lands offering superior inducements and attractions and being more than sufficient to supply all immediate demands to lease, it is readily perceived that under the present conditions, other results could not reasonably have been expected.

"At present, there seems to be no demand for the purchase of University lands. Therefore, in order to utilize them for the purpose for which they have been segregated, it is necessary to adopt one of two plans, viz: Either the rental must be reduced and the term of lease extended sufficiently to induce private parties to develop water and otherwise put these lands in shape for use, or else the State must provide the water necessary to make them profitable and available at the price now fixed by law. The latter plan is not desirable, even if feasible at all with safety to the State; hence it is with confidence that the recommendation is made, that the rental of the University lands be reduced to 3 cents per acre per annum, and the maximum term of the lease extended to ten years. Another solution still is to place these lands in the care of the University authorities. The regents of the University are gentlemen in whose hands the interest of that institution would doubtless be entirely safe. A careful consideration of this matter may suggest the wisdom of placing the University lands under such control, by the issuance of patents to the regents and their successors in office. If this is done, however, the rights of actual settlers who have settled upon and improved any of these lands with a view of availing themselves of the provisions of existing laws, should be provided for most amply. Certain of these lands have been occupied for years by settlers who are awaiting the determination of question of title. Such settlers should be allowed to purchase upon such terms as, reasonably, they had a right to expect at the date of their settlement.

"It is clearly against good public policy, that anyone should be allowed to appropriate to his own exclusive use lands belonging to the State without paying for the same. One object of the lease law is to prevent this. But it is proper, perhaps, to admit that the chief object of the lease of the public lands is revenue. It is within the province of statesmanship to inquire into the workings and effect of the law up to this time, with a view of safely determining whether or not the interests of the whole people and the prosperity of the State may be advanced by some modification of the same. From experience as stated above, it is demonstrated that a reduction of price and extension of term is necessary to secure the lease of University lands."

In their report of 1886, the regents say: "In addition to the fifty leagues of land granted in 1839 by the Republic of Texas, the State reserved for the benefit of the University, every tenth section of land granted or that might be granted to railroad companies or to the Galveston and Brazos Navigation company. It is estimated that this grant, had it not been impaired by the action of the convention of 1875, would have reached the magnificent proportions of one million six hundred thousand acres, situated in the most thickly settled part of the State, and worth perhaps on an average \$5 per acre. It can easily be seen that the land given subsequently, in lieu of this appropriation, is in no sense an equivalent. Had these tenth sections of railroad land remained as appropriated, the University would now be in no necessity, and so far as material resources are concerned, it would be perhaps, the most completely equipped public institution on the continent."

Unfortunately for the University, the million acres given by the State, in lieu of the tenth sections, were not near so valuable and fell vastly short in quantity as well as quality of the grant for which they were substituted to the University.

OLD INDEBTEDNESS TO THE UNIVERSITY.

One of the most comprehensive and at the same time justly liberal propositions presented in the inter-

est of the University, and its branches, was an act proposed by Representative McGaughey of Hood, since nominated on the Democratic ticket for State Land Commissioner, "An Act to pay the old indebtedness of the State to the University, and to give the regents control of the University lands; to better establish the relations between the University and its branches, by placing them all under a new board of management, and giving them each additional and separate land endowments out of the Pacific railway reservation as a compromise; and making provisions for acceptance of donations from Galveston and the executor of the Sealy estate for the early establishment of the medical department of the University at Galveston." One object of this bill was to increase the land endowment of the A. and M. College to an extent that would be satisfactory to the friends of the college, as an independent endowment of its own, to be accepted in lieu of any future appropriations to the college from the funds of the University. The bill, however, was never reported back to the house.

Another bill by Senator Glasscock and one by Representative Gresham, both giving the regents of the University control of its branches and of its lands, and other like measures were also pigeon-holed, adversely reported, or otherwise defeated. The legislature would not even entertain such measures; nor would it countenance a very fair proposition of Representative Hudgins, of Bowie, which Representative Moore, of Travis, among others, most earnestly advocated, to pay the University some \$212,000 (including interest) in place of University funds used by the State. As further evidence also of the strange jealousy in the minds of some members as to free schools and the University, the proposition of Mr. McGaughey was promptly followed by a bill introduced by Mr. Curry, of Van Zandt, which would virtually have appropriated about all the reserved public domain to the free school fund and would have defeated the University bill, whether so intended or not, and would have excluded all other institutions, except the free schools, from further land bounties by the State, and have left them no recourse

for future State aid except from the State's general revenues. As if in some measure to meet this proposition, Mr. McGaughey introduced another bill, House bill 593, "To perfect the organization of the University of Texas and its branches; to give the regents control of its lands; to appropriate the States 'scrap lands,' in the organized counties, to the common schools; and to settle all conflicting interests." This was reported favorably from the committee, but was not reached on the calendar for consideration. As this gentleman will doubtless be elected State land commissioner, his legislative experience and official position, coupled with his regard for the institution, will, it is hoped, enable him to be of effective service to the University in the management of its land affairs, and utilization of its landed resources.

As to Mr. Curry, since that gentleman said nothing to specially indicate his feelings in the matter, the writer does not wish to be understood as assuming, that on account of his attachment for the free schools, he was necessarily unfriendly to the University.

ACTION OF THE TWENTIETH LEGISLATURE.

Just here it is interesting to note the several measures, directly or indirectly affecting the interests of the University, as they were introduced in the Twentieth legislature.

In his message to that legislature, in regular session (1887), Governor Ireland made the following suggestions as to the University:

"This institution is in its infancy, but on a permanent basis. The faculty is an excellent one, and we look forward to the near approach of the time when our people will educate their children at home, and the children of Texas will crowd the walls of the University of Texas. I trust that a way will be found of enabling the regents to speedily complete the building, and to put into operation the medical department. In this connection, I call the attention of the legislature to the claim against the State for money used at the Prairie View Normal School in 1881-82, amounting to \$22,495.75. This amount should be refunded to the Uni-

versity. I invite attention to the report of the board of regents, a copy of which I herewith transmit."

Governor Ross, in his inaugural address as successor of Governor Ireland, did not allude to the University, or other State institutions. treating mainly of general affairs of State policy.

Bills, however, relating to the University, were introduced in the senate as follows:

By Senator Frank, Senate bill 143: "An act to turn over to the regents of the State University the University lands." Referred to judiciary committee. and then to the committee on education, which recommended its passage.

Subsequently the committee reported Substitute Senate bill No. 143: A bill to be entitled "An act to provide for the exclusive management and control of the land of the University of Texas, by the Board of Regents, with the power to sell or lease the same, and to institute the necessary suits concerning said lands," and the bill was taken up as the second special order.

On motion of Senator Glasscock, the bill was considered section by section.

Senator Field offered the following amendment to section 1: Amend by inserting after the word "university," in line six page one, the following: "and its several branches."

Senator Houston spoke in opposition to the amendment and the bill.

Senator Simkins spoke in favor of the amendment and the bill.

Senator Field spoke in favor of the amendment, and it was adopted by the following vote:

Abercrombie, Allen, Bell, Burney, Calhoun, Camp, Field, Frank, Glasscock, Harrison, Knittel, Lane, McDonald, MacManus, Pope, Simkins, Terrell, Woodward.—Yeas, 18.

Burges, Claiborne, Houston, Jarvis, Woods.—Nays, 5.

Douglass of Jefferson, Gregg, Upshaw.—Absent, 3.

The bill, with some minor amendments was engrossed and passed.

The committee on education reported favorably

"An act to confirm the exchange of lands made by the land commissioner of Texas for the University of Texas, and to restore the rejected blocks of land to the reserved public domain."

The bill was tabled in the house on motion of Mr. Prendergast of McLennan.

Senator Glasscock introduced Senate bill 320: "To define the University of Texas and its branches, and to perfect its organization, and to give the regents of the said University, the control of its branches, and of its lands."

The bill was not reported from the committee.

Secretary Lambert, of the house, reported April 2, 1887, to the senate, that "the house killed" sundry bills named, among them Senate bill 143, "An act to provide for the exclusive management and control of the lands of the University of Texas, by the board of regents, with the power to sell or lease the same, and to institute the necessary suits concerning said lands."

The following message was received from the house:

HOUSE OF REPRESENTATIVES, {
AUSTIN, April 4, 1887. }

Hon. T. B. Wheeler, President of the Senate.

Sir—I am instructed by the House to inform the the Senate that the House has adopted the report of the minority of the free conference committee on House bill No. 448—general appropriation bill, on the item granting \$87,801.60 to the University, etc., by a vote of 69 ayes, 20 nays.

WILL LAMBERT,

Chief Clerk House Representatives.

The minority report was submitted as follows:

COMMITTEE ROOM, AUSTIN, April 4, 1887.

Hon. George C. Pendleton, Speaker of the House of Representatives, and Hon. T. B. Wheeler, President of the Senate.

We, a minority of your committee of free conference on House bill No. 448, known as the general appropriation bill, beg leave to dissent from the recommendation of the majority in reference to the payment of \$87,801.60 to the University and its branches, and

for the establishment of the medical branch at Galveston.

Without expressing an opinion as to whether the State is justly due the University this amount or not, we respectfully assume that in consideration of the number and amounts of the extraordinary appropriations this Legislature has seen proper to make and the gloomy prospect of collecting our usual amount of revenue, because of the distressed condition of many thousands of our tax paying citizens, that it is unwise and indiscreet to further burden the State treasury at this time by paying this at least disputed claim to the University.

In justification of this report, if any is needed, we refer to the large deficiency bill we have had to pass, amounting in round number to \$300,000; given for the relief of the drouth sufferers, \$100,000; for the establishment of a house of correction and reformatory, \$50,000; and for a branch asylum for the blind, and deaf and dumb of the colored race, \$50,000; besides the cost of this Legislature and the increased appropriation to several State departments, because of constitutional amendments submitted, a changed land policy, etc.

Not less than \$725,000 has been or will be soon drawn from the treasury because of these items alone, and that, too, at a time when we can ill afford, in consideration of the distressed condition of the great industrial classes of our State, to demand of them a greater amount in taxes than is actually necessary for the economical administration of government.

In conclusion, we beg to say that, although not indorsing all the items in this bill, we concur in the report of the majority of the committee with the exception of the item hereinbefore mentioned, and that we adopt the said majority report and ask that it be made a part hereof with the exception of said item.

MILLS, }
TATE, } Of the House Committee.

In the House in the regular session of the Twentieth legislature (1887), Mr. Hudgins introduced House bill 332, "An act to restore to the funds of the University of Texas divers amounts of money drawn there-

from by the State of Texas for other purposes than those pertaining to the University, and to provide for the payment of interest on said amounts." Referred to judiciary committee and then to finance committee, but was not reported from the committee.

Mr. Larkin presented a petition from citizens of Henderson county, asking that one-third of the available fund of the University, be set apart to be controlled and disbursed by the board of directors of the Agricultural and Mechanical college for its development, support and maintenance. Referred to finance committee.

Governor Ireland in his message to the legislature, in which he refers to the University, as already noticed, refers also to the college as follows: "I am glad to be able to announce that this institution is in a most flourishing condition, and that it has been brought to something like that high standard intended by its founders. Within the last few months, the institution has had to mourn the loss of the president of the board of managers in the death of ex-Senator Pfeuffer. In the demise of such a man, the country lost a most valuable citizen and the college, a most zealous and efficient supporter. The sons of the farmers and mechanics of this State are repeating a rich harvest from this school."

Committee of the legislature to visit the A. & M. College, reported generally, favorably to the institution, but say: "Your committee not having sufficient time to examine fully into the working and management of the A. and M. College, we cannot make as full and explicit report and recommendations as we would like to do. But we are lead to believe, from what we saw that the amount of money expended by the State on the agricultural has not so been so expended as to bring that branch of the college up to the expectations of the committee, and the requirements of the State."

Mr. Gresham, February 2, 1887, introduced House bill 354, "An act to provide for the exclusive management and control of the lands of the University of Texas by the board of regents, with power to lease or

sell the same, subject to the governor's approval, and to institute necessary suits concerning said lands."

The bill provides that the lands of the State University of Texas shall be under the exclusive control of the board of regents, subject to the governor's approval of any suit said board may desire to institute; that all contracts made by said board of regents shall be deposited by the State treasurer, who shall do all collecting, and such collections shall be placed to the available and permanent fund, as they may belong; that the board of regents shall have full power to open offices and to appoint and pay agents necessary for the management of such lands, and also to enforce contracts to settle disputed boundaries, etc.; that upon certificate of the board of regents of a contract of sale, the commissioner of the land office shall issue patent of land to purchaser of lands. Reported adversely, March 10, 1887, as similar bill had been acted on.

By Mr. Gresham: House bill 550—"To define the University of Texas and its branches, to perfect its organization, and to give the regents control of its branches and lands." Reported adversely, because similar bill (House bill 593) is reported favorably by the committee.

By Mr. McGaughey: House bill 593—"To perfect the organization of the University of Texas and its branches; to give the regents control of its lands; to appropriate the scrap lands in the organized counties to the common schools; and to settle all conflicting interests." Reported favorably, but not reached.

By Mr. Buchanan: House bill 597—"To amend Art. 5699, of the Revised Statutes, relative to the A. & M. College, so as to give the College one-fourth of the University fund." Reported favorably with recommendation for one-fifth, instead of one-fourth.

THE UNIVERSITY'S FINANCES.

So much for the State's control of the University lands. Still more fateful even has been its diversion of the University funds, so that but for a ruling of Hon. Wm. J. Swain late State comptroller (Sept. 15, 1883,) the University could hardly have been put into

operation on a respectable basis even then for want of available resources. These transactions pervade the history of the University to such an important extent it is deemed best to give the history of them pretty fully as presented in the correspondence concerning the claims of the University of Texas upon the State of Texas, which Governor Ross submitted in his message to the Twenty-first legislature as follows:

EXECUTIVE OFFICE, April 19, 1888.

To the Senate of Texas.

GENTLEMEN:—I have the honor to submit herewith the report of the Regents of the University of Texas for your consideration. It is not too much to say that justice to a great institution demands that some action be taken with a view to repay the funds of which it has been deprived by State agency for revenue purposes. Respectfully,

L. S. Ross, Governor of Texas.

EXECUTIVE OFFICE, Austin, March 28, 1888.

Dr. Waggener: Chairman of the University Faculty.

MY DEAR SIR:—I would be pleased to have you or Dr. Wooten, (President of the Board of Regents), supply me, at your earliest convenience, such information as you may possess relating to the funds of the University, claimed to have been appropriated to other purposes by former legislatures and still remaining unpaid. Very respectfully, etc.

L. S. Ross, Governor.

UNIVERSITY OF TEXAS, March 28, 1888.

His Excellency, Governor L. S. Ross, Austin Texas:

DEAR SIR:—In reply to your favor of this date, asking for information "relating to the funds of the University, claimed to have been appropriated to other purposes by former legislatures and still remaining unpaid," I beg leave to call attention to the following:

The funds due the University from the State may be classed under three heads: First, (a) the amount misappropriated for the maintenance of the Prairie View Normal School; second, (b) the amount borrowed

from the University fund by the State and not returned; third; (c) the amount due on State warrants received for University lands but not paid to the University.

A. *The Prairie View Normal School.*—The Prairie View Normal School is a State institution for the instruction of colored teachers, and is now entirely supported out of the general revenue. It has no statutory connection with the University, and never had any; yet between the years 1879 and 1881, the following appropriations out of the University fund were made for the support and maintenance of this school:

Act of April 29, 1879.....	\$12,000
Act of July 9, 1879.....	1,600
Act of April 1, 1881.....	14,000
Total.....	\$27,600

Of this amount only \$14,495.73 was disbursed, as appears from the statement made by Comptroller Wm. J. Swain, in answer to inquiry made November 27, 1886:

“AUSTIN, Nov. 27, 1886.

“*Hon. T. D. Wooten, President Board of Regents, University of Texas:*

“SIR:—In reply to your inquiry of this date, relative to the amount of the University fund appropriated for the support of the Prairie View Normal School, you are informed that the sum of \$27,600 was appropriated, and of said amount there has been disbursed the sum of \$14,495.73. Respectfully,

WM. J. SWAIN, Comptroller.”

According to these statements of the comptroller, the sum of \$13,104.27, though appropriated by the legislature, was not disbursed. The sum of \$14,495.73, however, was disbursed, and the regents claim that it should be refunded to the University, with interest. The claim is founded on the fact that the Prairie View Normal School is in no sense of the word a part or branch of the University. It is a State institution, it is true, and so is the Lunatic Asylum, and the Asylum for the Deaf and Dumb and Blind. The legislature might as well draw on the University fund for the support of these institutions. The claim is, moreover,

supported by the fact that not only has no additional appropriation for the Prairie View Normal School been made or asked for out of the University fund, but the balance appropriated, \$13,104.27, has never been disbursed. This amounts, in the opinion of the regents, to a tacit acknowledgement that the Prairie View Normal School is not entitled to further appropriations from the University fund, or even to the balance appropriated and not disbursed. It is respectfully submitted that if this institution is not entitled to draw any more money from the University fund, it is not entitled to what it has already drawn, and that therefore the \$14,495.73 disbursed should be refunded with interest.

B. *Money borrowed from the University fund by the State and not returned*—The legislature has at various times authorized certain amounts to be transferred from the University fund to the general fund.

It seems that an act was approved January 31, 1860, authorizing \$109,472.26 in United States bonds to be borrowed from the University funds for frontier defenses; that an act was approved January 29, 1861, borrowing for the per diem of members and officers of the extra session \$9,786.62 in specie; that an act was approved February 8, 1861, borrowing for the ordinary expenses of government \$25,000 in United States bonds, and that an act was approved January 9, 1862, borrowing \$1,500 in specie. The books of the comptroller show that under this last act \$1,520.40 was actually drawn. The evident intention was to take it all, but it seems that the sum of fifty-seven cents was left. Why this was not taken does not appear. In each of these acts there is a distinct promise to pay the borrowed money back to the University as soon as there should be sufficient means in the treasury. According to the statements of the comptroller, this promise was kept only in cases of the first and third transfers, amounting to \$134,472.26. No provision has ever been made by the State to restore the second and fourth transfers, amounting to \$11,289.02. The regents, theretofore, respectfully ask that this amount be re-

funded to the University, with interest from date of transfer.

C. *State warrants received for University lands but not paid by the State.*—It seems that in January, 1862, there was to the credit of the University, \$16,694.77 in treasury warrants, and that from January, 1862, to June, 1865, there was received in warrants the additional sum of \$5,836.03, making a total of \$22,530.80 to the credit of the University fund. The non interest bearing warrants, amounting to \$10,300.41, were cancelled under the following circumstances, as given by Comptroller Darden, in his report dated January 6, 1881: "Attention is called to the item, \$10,300.41 in comptroller's certificate of debt, appearing to the credit of University land sales account. This certificate of indebtedness was issued to that fund by the comptroller, W. L. Robards, June 8, 1865, in lieu of a like amount of State warrants which had been paid in to the credit of that fund for the purchase of University lands, under act of December 13, 1863. These warrants were destroyed and the indebtedness of the State to the University fund was recognized by the comptroller by the issuance of the certificate of debt." This certificate of debt was recognized by the act of February, 1883, and ordered to be paid in full; but the \$12,230.39 in warrants bearing 10 per cent interest has never been paid. All of which is evidenced by the following statement from the comptroller in answer to inquiry of November, 1886:

OFFICE OF COMPTROLLER, AUSTIN, Nov. 23, 1886.

Hon. T. D. Wooten, President Board of Regents, Austin, Texas.

"Sir—In compliance with your request that I inform you how much of the University fund has been at different times appropriated to the general expenses of the State government, and whether all sums thus appropriated have been restored to the University fund, I give you the following facts shown by the books and records of this department:

"By authority of an act of the legislature, approved

January 31, 1860, there was transferred from University fund to the general fund for the ordinary expenses of the government, the sum of \$100,000, in United States bonds, and interest on the same \$9,472.26.

By authority of the act of the legislature, approved January 29, 1861, there was a further transfer of \$9,768.62 from the University to the general fund for proceeds of sales of University lands.

On February 8, 1861, another act of the legislature was approved, by which the additional transfer of \$25,000 was authorized from the University fund, and by a subsequent act, passed January 9, 1862, another transfer was made from the University fund to the general fund, amounting to \$1,520.40, making the total amount of University funds used in payment of the ordinary current expenses of the State government as follows:

By act of January 31, 1860	\$109,472 26
By act of January 29, 1861	9,768 62
By act of February 8, 1861	25,000 00
By act of January 9, 1862	1,520 40
Total	\$145,761 28

The last transfer, viz.: January 9, 1862, consumed the whole of the University fund, with the following exception, viz.:

Specie	\$ 57
Treasury warrants \$4,638 97, and 10 per cent treasury warrants \$12,055 80	16,694 77
From January, 1862, to June, 1865, received in warrants *	5,836 03
Making a total of warrants belonging to the University fund †	22,530 80
Classed as follows ;	
Non interest bearing warrants	\$10,300 41
Ten per cent interest bearing warrants	12,230 39

These warrants were received from the sale of University lands and were paid into the treasury under authority of an act of the State legislature, permitting the purchasers of University lands to make payment in treasury warrants. Received into State treasury from 1859 to 1863 inclusive.

On the 8th of June, 1865, the non-interest bear-

* Warrants, \$5,661.44 ; interest bearing warrants, \$174.59 ; total, \$5,836.03.

† Warrants, \$10,300.41 ; interest, \$12,230.39 ; total \$22,530.80.

ing warrants, viz.: \$10,300.41, were cancelled, and a certificate of indebtedness on the part of the State issued to the University fund, by Hon. W. L. Robards, then comptroller.

The remaining warrants, \$12,230.39, belonging to the University fund, appear to have been dropped from the books of this office in compliance with section 3, of ordinance XII, of the constitutional convention, "securing the common school fund and the University fund, and for other purposes," passed April 2, 1866. They were received into State treasury from 1859 to 1863, inclusive. ‡

In accordance with the provisions of an act of the legislature approved November 12, 1866, there was issued to the University fund \$134,372.26 in 5 per cent State bonds. These bonds covered the first and third transfers from the University fund, viz.: \$109,472.25 and \$25,000.00. No further reimbursement of the University fund appears. §

No provision appears ever to have been made by the State to restore to the University fund the amount embraced in the second and fourth transfers, viz.: \$9,768.62 and \$1,520.40, aggregating \$11,289.02.

By the provision of an act of the legislature, approved February 23, 1883, the \$134,172.26 in 5 per cent bonds, with interest, and the \$10,300.41 certificate of debt were paid in full, leaving yet unrestored the amounts borrowed from the University funds by the act of January 29, 1861, and January 9, 1862, \$11,289.02, and State warrants received in payment of University lands \$12,230.39, the two items amounting to the sum of \$23,519.41.

Respectfully,

WM. J. SWAIN, Comptroller."

Attention is respectfully called to the fact that, in

‡ There was thus left to the credit of the University land sales account, only \$10,300.41 comptroller's certificate. The several acts provided that the several appropriations should be refunded.

§ Deducting the amount of the bonds from the amount of cash borrowed (\$145,761.28), we have \$11,289.02, which appears was never restored, over and above the \$12,230.39, in warrants, dropped from the books of the department, under ordinance of the convention.

the opinion of Comptroller Swain, there is no reason why the amounts borrowed from the University fund by the act of January 29, 1861, and January 9, 1862, \$9,768.02 and \$1,520.41, should not be restored to the University. But the comptroller is of the opinion that interest bearing warrants, amounting to \$12,230.39, were dropped from the books of his office in compliance with section 3, of ordinance XII, of the constitutional convention, "securing the common school fund and the University fund and for other purposes." passed April 2, 1866. This section, so far as the University is concerned, reads as follows: "Be it ordained, etc., That the legislature, at its first session, shall provide for issuing coupon bonds of the State for the 5 per cent United States bonds, and interest, transferred from the University fund to the State revenue account, in February, 1860, and when issued they shall be placed in the treasury to the credit of said fund. Be it further ordained, That the legislature of this State shall have no authority and are hereby forbidden to assume or provide by taxation or otherwise, for the payment of any other claim or pretended liability of the State to said fund, not enumerated in this ordinance."

In view of the fact that the next legislature convening in the same year in which the convention met, and under the constitution adopted by it, did assume and provide for the payment of other claims, to-wit: The \$25,000 borrowed by act of February 8, 1861; and in view of the fact that Comptroller Robards, who was fully aware of this constitutional provision, recognized as valid the \$10,300.41 in warrants, by keeping this item on his books, the regents respectfully suggest that the ordinance referred to by the comptroller was intended to be construed as referring to fraudulent and pretended claims, and not to money borrowed by an act of the legislature, which solemnly pledges the State to refund the same as soon as possible, nor to warrants which were received according to law in payment for University lands for which patents were issued by the State. It is presumed that the convention of 1866 did not intend to deprive the University of any part of its appropriate fund, for in article X, sec. 8, of the constitution

adopted by this convention, it is ordained that "the moneys and lands heretofore granted, or which may hereafter be granted, for the endowment and support of one or more Universities, shall constitute a special fund for the maintenance of said Universities; * * * and the legislature shall have no power to appropriate the University fund for any other purpose than that of the maintenance of said Universities."

The opinion is also ventured that this claim of \$12,230.39 from interest bearing warrants, and the claim of \$11,289.05 borrowed money, would have been recognized, as was the debt of \$25,000, had they not been simply overlooked; there being up to 1882 no board or officer whose especial business it was to bring to the notice of the legislature matters relating to the University and its endowment.

The regents therefore ask that \$12,230.39 with interest at 10 per cent from June 1, 1856, be repaid to the University fund.

To recapitulate: The funds of the University claimed to have been appropriated to other purposes by former legislatures and still remaining unpaid are as follows:

A—The Prairie View Normal School Appropriation.....	\$14,495 73
Interest.....	8,214 26
B—Money borrowed for State expenses.....	11,289 02
Interest.....	24,540 48
C—Unredeemed warrants	12,230 39
Interest.....	28,028 00
Total.....	\$98,797 88

Respectfully submitted, THOS. D. WOOTEN,
President Board of Regents.

THE COMPTROLLER'S STATEMENTS.

UNIVERSITY OF TEXAS, April 10, 1888.

To His Excellency, L. S. Ross, Governor of Texas.

DEAR SIR—In accordance with your request of March 28, that you be furnished with information in regard to money due the University from the State, the following, in addition to statement already rendered, is most respectfully submitted:

In compliance with the act of January 4, 1862, and of December 16, 1863, of the Texas legislature,

Confederate notes were received by the State during the years 1862-1865, in payment for University lands. In Paschal's Digest, Article 3571, and note, it is said that "very large amounts, due the University fund, were paid in Confederate money, under these laws."

The regents have had some difficulty in ascertaining the exact amount paid for University lands during the war in Confederate notes, and also in ascertaining the disposition of this money by the State authorities. Both of these points can now, however, be clearly stated; and the attention of your Excellency is most respectfully invited to their consideration.

When the Texas State convention assembled in Austin, February 7, 1866, "to alter or amend the constitution of the State," one of its first acts was to appoint a "committee on finance," to audit, among other duties, the several trust funds of the State. On March 23, 1866, that committee reported as follows:

"The committee find there has been paid into the treasury, on account of University lands:

Specie on account, principal and interest on notes.....	\$ 37,932 04
Ten per cent interest bearing warrants.....	12,230 39
Non interest bearing warrants.....	10,300 41
Confederate notes.....	114,804 48
Transferred to State revenue account.....	203,901 30

Amounting to.....\$379,168 62

which has been converted and expended, during the war, by the State authorities." (Journal of the Texas State Convention of 1866, page 275.)

A letter of inquiry was addressed to the comptroller, asking for information in regard to the item "Confederate notes \$114,804.48." The following answer was received:

"OFFICE OF COMPTROLLER, AUSTIN, April 6, 1888.

"*Dr. T. D. Wooten, President Board of Regents, University of Texas, Austin, Texas.*

"DEAR SIR—In reply to yours of the 4th inst., in which you ask the following: 'Referring to the report of the finance committee, as published in the Journal of the Texas State Convention, assembled in Austin, February 7, 1866, page 275, I beg leave to ask, whether

1860	<i>Contra.</i>	
Feb. 29	By amount expenses of land sales	\$ 1,641 45
	By amount transferred to State revenue	100,000 00
	By interest on same	9,472 26
1861		
Feb. 28	By amount transferred to State revenue under act of January 29, 1861	9,768 62
	Under ct of February 8, 1861	25,000 00
1862		
Feb. 28	By amount transferred to State revenue in payment of contingent expenses of the Ninth legislature... By balance on hand, transferred to University land sales—specie	2,521 40 57
	Confederate notes	3,952 74
	Treasury warrants	4,638 97
	Ten per cent interest warrants	12,055 80
		\$168,051 81

UNIVERSITY LAND SALES ACCOUNT.	Specie.	Treasury Warrants.	Confederate Notes.	Ten per cent Treasury Warrants.
1862				
Nov. — To transfer from University funds—balances.....		\$4,638 97	\$ 3,952 74	\$12,055 80
Nov. 30 To land sales	\$.57	2,273 00		
1863				
Feb. 28 To land sales		135 00	17,586 09	57 98
May 31 To land sales			16,499 36	116 61
Aug. 31 To land sales			16,096 31	
Nov. 30 To land sales			57,594 40	
1864				
Feb. 29 To land sales			5,931 58	
May 31 To transfer from Confederate notes to treasury warrant column—deposited erroneously		5,129 00		
	.57	\$9,902 97	\$119,933 48	\$12,230 39
<i>Contra.</i>				
1863				
May 30 By transfer to State revenue by order comptroller			\$ 40,000 00	
1864				
May 31 By transfer from Confederate notes to treasury warrant column — deposited erroneously			5,129 00	
1865				
Feb. 28 By amount non interest bearing Confederate notes, old issue, delivered to P. Priestly, C. S. depositary at Austin, by order of comptroller, to be exchanged under the several laws of the C. S. congress and the State legislature relating thereto, for C. S. bonds and notes of new issue			74,804 48	
By balances57	9,902 97		12,230 39
	.57	\$9,902 97	\$119,933 48	\$12,230 39

UNIVERSITY LAND SALES ACCOUNT	Specie.	Treasury Warrants.	Confederate Notes.	Ten per cent Treasury Warrants.
1865				
Feb. 28 To balances.....	.5	\$9,902 97		\$12,230 39
May 31 To land sales.....	..	397 44		
June 8 To comptroller's certificate, issued in lieu of treasury warrant		10,300 41	
	.57	\$10,300 41	\$10,300 41	\$12,230 39
<i>Contra.</i>				
1865				
June 8 By warrant cancelled and comptroller's certificate is- sued therefor.....	..	\$10,300 41		
By balances.....	.57		*10,300 41	12,230 39
	.57	\$10,300 41	\$10,300 41	\$12,230 39
To balances on hand.....	.57		\$10,300 41	\$12,230 39
* Comptroller's certificate.				

SUMMARY OF UNIVERSITY LAND SALES.

To total receipts from all sources including balance on hand November 1, 1858.....	\$284,739 58
	\$284,739 58

Contra.

By total transfers to State revenue.....	\$185,762 28
Amount expenses of land sales.....	1,641 45
Amount Confederate notes delivered to C. S. depository to be converted into new issue.....	74,804 48
Balances on hand June 8, 1865, specie	57
Comptroller's certificate.....	10,300 41
Ten per cent treasury warrants.....	12,230 39
	\$284,739 58

"OFFICE OF COMPTROLLER, AUSTIN. April 6, 1888.

"Dr. T. D. Wooten, President Board of Regents, University of Texas.

"DEAR SIR—Replying to your favor of the 4th inst., I herewith enclose itemized statement of the University fund and University land sales account, showing receipts, transfers and disbursements of same, from November 1, 1858, to June 8, 1865. Transfers are shown to State revenue account as follows:

Act of Jan. 31, 1860, U. S. 5 per cent bonds.....	\$100,000 00
Interest on same.....	9,472 26
Act of Jan. 29, 1861, specie borrowed.....	9,768 52
Act of Feb. 8, 1861, " ".....	25,000 00
Act of Jan. 9, 1862, " ".....	1,521 40
Transferred to revenue, May 30, 1863.....	40,000 00
Total.....	\$185,762 28

"Of these amounts the following items have been restored to the University fund in accordance with the provisions of an act of the legislature, February 23, 1883, namely: the first, second and fourth items of the above, aggregating \$134,472.26 leaving a balance unrestored that was actually borrowed and so transferred, of \$51,290.02.

"The item of \$40,000 that was transferred to State revenue account on the 30th of May, 1863, has this note with the entry: 'This amount is transferred by order of the comptroller.' If there was any authority of law for this transfer, no reference appears thereto, nor has any such law been found by this department.

"The item of \$74,804.48 Confederate notes, which appears in the disbursements, was turned over to P. Priestly, C. S. depository at Austin, by order of comptroller, on February 28, 1865, to be exchanged under the several laws of the Confederate States congress, and the State legislature relative thereto, for Confederate States bonds and notes of new issue.

"The item of comptroller's certificate of \$10,300.41 was restored to the University by act of February 23, 1883. The remaining balance on hand June 8, 1865, of the 10 per cent treasury warrants for \$12,230.39 appears to have been dropped from the books of this office in compliance with section 3 of ordinance XII, of the State constitutional convention, on April 2, 1863.

"A summing up of the whole gives the following:

Amounts actually borrowed.....	\$185,762 28
Amount treasury warrants dropped....	12,230 39
Confederate notes.....	74,804 48
Comptroller's certificate.....	10,300 41

Total.....	\$283,097 56
Amount restored.....	144,772 67

Balance not restored.....\$138,324 89

"The following make up said balance:

Amount transferred under act of January 29, 1861.....	\$ 9,768 62
Amount transferred under act of January 9, 1862.....	1,521 40
Amount of comptroller's transfer May 30, 1863.....	40,000 00
Amount of Confederate notes turned over for exchange for new issue.....	74,804 48
Amount of 10 per cent treasury warrants dropped.....	12,230 39

Total.....\$138,324 89

Respectfully, JNO. D. McCALL, Comptroller.

Of the items making up the balance (\$138,324.89) not restored, it may be well to say that item 1, \$9,768.62; item 2, \$1,521.40, and item 5, \$12,230.35, are duly set forth, explained and asked for, in statement previously filed with your Excellency. The remainder, item 3, \$40,000, and item 4, \$74,804.48, have not only not been restored, but so far as the regents are informed, the attention of the legislature has never been called to the fact that this amount of money was at one time held by the state in trust for the University. The request of your Excellency, however, that full information be given you on these points, affords the regents an opportunity to call attention to this fact. Since this amount, \$114,804.48, is of the same character as a part of the claim allowed in 1883, (for which allowance the University is largely indebted to the interest taken in the matter by your Excellency when a member of the Senate,) the regents are led to believe that it will be recognized and allowed.

The facts as presented in statements of comptroller are plain and indisputable. University lands were sold during a certain period, by authority of the legislature, for Confederate money. For these lands there was received in this money \$114,804.48, which was placed to the credit of the University fund. Of this amount, \$40,000 was transferred by the comptroller to the general revenue and used doubtless in defraying the ordinary expenses of the State government; \$74,804.48 was turned over to the Confederate States depository, to be funded under the laws of the Confederate States government in bonds for the benefit of the University. None of this money (\$114,804.48), paid for the University lands by authority of the State legislature, has been restored to the University fund. The only question is whether the State is under obligation to return it. The regents are of the opinion expressed by the compiler of Paschal's Digest: "Such payments" (Confederate money for University lands) "may operate as discharge to the debtors, but it would seem to leave a just claim on the State in favor of the education (University) fund." Paschal's Digest, vol. 1, art. 3571, Note.

The regents are willing to leave the statements of facts by the comptroller to have their proper weight, trusting that the fund borrowed in the time of the emergency of the State will be returned to the regents at the time of the emergency of the University.

It may not be out of place to say that in recognizing this claim of the University, which cannot be enforced in the courts, the legislature will but follow in the footsteps of the general government in allowing to Texas an indemnity fund, which the State had no power to enforce or ability to collect. What congress has just done, the State legislature can certainly do; especially as in doing this the legislature will not be paying money to an outsider, but will be simply repaying to one department money borrowed from that department to pay expenses of another department; or refunding securities received by order of one department in trust for another department, which securities have since become worthless. It may be proper to say here that this claim for money paid in Confederate notes for University lands has not been filed sooner, because the facts were not until recently sufficiently known to justify a formal presentation of the matter to your Excellency, and through you to the Honorable Legislature of the State. In conclusion, it is respectfully stated that the full University claim, including amounts referred to in previous papers, is as follows:

1. Amount paid Prairie View Normal school.....	\$ 14,495 73
Interest on same at 8 per cent from April 1, 1881, to May 1, 1888.....	8,214 26
2. Amount borrowed by act of January 29, 1861.....	9,786 62
Interest on same at 8 per cent from January 9, 1861, to May 1, 1888.....	21,340 21
3. Amount borrowed by act of January 9, 1862.....	1,520 40
Interest on same at 8 per cent from January 9, 1862, to May 1, 1888.....	3,200 27
4. Amount of 10 per cent warrants.....	12,230 39
Interest on same at 10 per cent from June 1, 1865, to May 1, 1888.....	28,028 00
5. Amount transferred by comptroller May 30, 1863.....	40,000 00
Interest on same at 8 per cent from May 30, 1863, to May 1, 1888.....	78,880 98
6. Amount turned over to C. S. depositary February 28, 1865	74,804 48
Interest on same at 8 per cent from February 28, 1865, to May 1, 1888.....	138,687 53
Total.....	\$431,188 85

Respectfully submitted, THOS.¹ D. WOOTEN,
President Board of Regents.

The figures and estimates were carefully taken for Comptrollers Swain and McCall from the records of the office by their respective chief bookkeepers, R. S. Harrison and R. W. Finley. They are here correctly printed, as verified by collation by the author with the original correspondence in the office of the comptroller.

Prior to this, the State had been granted an indemnity fund of nearly one million dollars from Washington, in view of which Rev. Dr. B. H. Carroll and Hon. W. L. Prather of Waco, and ex U. S. Senator Maxey wrote to Governor Ross, strongly urging him to recommend a liberal appropriation from the State to the University.

General Maxey urged that the University would never have greater need of the funds due it from the State or the State ever be in better condition to settle. He knew of no principle, save force, that would enable a State acting as trustee withholding these funds.

Dr. Carroll wrote: If Mr. Jefferson, whom we both so much admire, counted it worthy of a life work to build up the Virginia University, and sleeps today under an epitaph, proudly commemorative of this fact, have I presumed in attributing a similiar spirit to the present governor of a greater commonwealth?

Col. Prather wrote: This immense indemnity fund comes at a time when we already have an overflowing treasury, and I know of no institution which has such claims upon the State and whose needs are so great as the University's. I have felt, too, that a recommendation from you that a portion of this fund be applied to this object at this time, would be in strict accord with "the eternal fitness of things." The placing of all the former State institutions upon a firm basis and the inauguration of others to meet the growing needs of our people, have been the distinguishing features of your administration.

FURTHER ACTION OF THE LEGISLATURE.

Following the foregoing correspondence with the governor, and his brief message communicating it to the Twentieth legislature sitting in extra session, the following proceedings occurred in the senate:

By Senator Burges:—Resolved, That the senate committee on education be and are hereby instructed to inquire into and report to the senate the amount of indebtedness due from the State to the University of Texas. The resolution was adopted.

By Senator Armistead: Senate bill 12—A bill to be entitled an act to repay the funds of the University of Texas divers amounts of money drawn therefrom by the State of Texas for other purposes than those pertaining to the University, and to provide for the payment of interest due thereon.

Be it enacted by the legislature of the State of Texas:

Section 1. The following sums of money due by the State to the permanent University fund as follows:

1. Amount borrowed by the act of January 29, 1861.....	\$ 9,768 62
2. Amount borrowed by the act of January 9, 1862.....	1,520 40
3. Amount transferred to the general revenue by the comptroller, May 30, 1883.....	40,000 00
4. Amount of 10 per cent interest bearing warrants destroyed and dropped from comptroller's books, 1865.....	12,230 39
Aggregating.....	<u>\$63,519 41</u>

be and the same are hereby appropriated from any funds in the State treasury, not otherwise appropriated, to the permanent fund of said University, and the same shall be transferred and entered to the credit thereof in the comptroller's books, and invested as other permanent University funds.

Section 2. That the following amounts, the same being interest due on said permanent funds up to May 1, 1888, to-wit: On item one, in the preceding section from January 29, 1861, at 8 per cent, \$21,340.21; on item two, from January 9, 1862, at 8 per cent, \$3,200.27; on item three, from May 30, 1863, at 8 per cent, \$78,880.98; on item four, from June 1, 1865, at 10 per cent, \$28,028.00; aggregating interest, \$131,449.46.

Also the amount of \$14,495.73 paid the Prairie View Normal school out of the available University fund, under the acts of April 29, 1879; July 9, 1879, and April 1, 1881, together with interest thereon at 8 per cent from April 1, 1881, to May 1, 1888, amounting to \$8,214.26 (all the items of this section aggregating

the sum of \$154,159.45). be and the same are hereby appropriated to the available University fund from any funds in the State treasury not otherwise appropriated, and the same shall be properly transferred and entered on the comptroller's books to the credit of said available funds and used as such.

Referred to the committee on education.

COMMITTEE ROOM, AUSTIN, April 24 1888.

Hon. I. B. Wheeler, Lieutenant Governor and President of the Senate.

SIR — Your committee on education to whom was referred Senate bill No. 12, entitled: An act to repay to the funds of the University of Texas, divers amounts of money drawn therefrom by the State of Texas for other purposes than those appertaining to the University, and to provide for the payment of interest due thereon, have had the same under consideration, and instruct me to report it back to the Senate with the recommendation that it do pass, with the following amendment: To strike out one hundred and fifty-four thousand one hundred and fifty-nine dollars and forty-five cents (\$154,159.45) and insert in lieu thereof ninety thousand dollars. All of which is respectfully submitted.

GLASSCOCK, Chairman.

The bill was laid before the senate and read second time with committee amendment.

Senators Armistead, Gregg, Jarvis and Glasscock opposed the committee amendment and it was lost.

Senator Jarvis moved to amend by striking out the whole of section 1 of the bill making appropriation of \$63,519.41, and spoke in favor of the amendment.

On motion of Senator McDonald the bill was postponed and made the second special order from day to day till disposed of.

The bill was subsequently laid before the Senate with the Jarvis amendment.

Senator Allen moved to substitute amendment, striking out the \$40,000 in section 1, and striking out the third item in section 2.

Senator Simkins spoke at length against the amendment and substitute and in favor of the bill.

The Senate adjourned till Monday when Senate bill No. 12, proposing to refund moneys to the University fund with two amendments, being the pending business, Senator Simkins concluded his speech in favor of the bill, and Senator Gregg spoke at length in opposition to the bill.

The special order, Senate bill No. 12, was laid before the Senate, with amendment by Senator Jarvis and substitute therefor by Senator Allen, pending. Senator Burney made the point of order that Senator Allen's substitute for the amendment of Senator Jarvis' could not be acted upon as such, as it covers two sections of the bill. Point sustained. Senator Allen spoke at length in favor of his amendment. Senator M'Manus spoke against the amendment and in favor of the bill, and Senator Baker spoke in favor of the bill.

The amendment offered by Senator Allen was lost, and Senator Jarvis withdrew his amendment.

Senator Claiborne offered the following amendment: After the word "cents," in line 22, section 2, add "and that fifty thousand dollars of the available portion of the money hereby appropriated be and the same is hereby appropriated and set apart, to be used in the construction of buildings for the medical branch of the University of Texas, at the city of Galveston. Provided, that the said city of Galveston shall donate to the University of Texas block 668, in said city, to be used for the medical branch of that institution; and Provided further that the executor of the estate of John Sealy, deceased, shall agree to construct on said block at a cost of not less than fifty thousand dollars (\$50,000), a medical hospital, which, when completed, is to be donated to the medical branch of the University of Texas, and to be under the control of the board of regents of said University.

Senator Claiborne spoke in favor of the amendment, and it was lost.

Senator Stinson offered amendment adding to the end of section 2, the following: Provided, the appropriation shall be a full and complete settlement and satisfaction of all claims and demands that the University of Texas has against the State of Texas.

Senator Stinson spoke in favor of the amendment, and it was lost.

Senator Jarvis moved to amend by striking out all of section 2 of the bill, which seeks to recover interest. Lost, and the bill was ordered engrossed.

The bill was subsequently reported engrossed by Senator Frank, chairman of committee on engrossed bills.

Senate bill No. 12 was laid before the senate and read third time.

Senator Stinson moved to amend by striking out the enacting clause. Lost.

The bill was passed by the following vote: Yeas—16. Armistead, Baker, Bell, Burney, Calhoun, Glasscock, Houston, Knittel, Lane, McDonald, Macmanus, Pope, Simkins, Upshaw, Woods, Woodward. Nays—8. Allen, Douglass of Grayson, Field, Frank, Garrison, Jarvis, Stinson, Terrell. Paired—Senator Camp, who would have voted yea, with Senator Gregg, who would have voted nay.

Senator Allen gave notice of intention to file reasons for voting against the bill, and Senator Field sent the following to the secretary's desk, and asked its insertion in the Journal: On the final passage of Senate bill No. 12, known as the University bill, we voted "no," because the bill appropriated to the permanent fund of the University \$63,519.41, and to the available University fund \$154,159.45, and in our opinion the University has no legal claim against the State, but, has perhaps, an equitable claim of \$23,519.41 permanent fund and \$75,270.47 available fund, for the appropriation of which amounts we would have voted "yea."

FIELD,
FRANK,
ALLEN,
GARRISON.

May 12, Chief Clerk Lambert of the house reported to the senate that the house had passed Senate bill 12, with a number of amendments.

Senate bill No. 12. An act to repay the funds of the University of Texas divers amounts of money drawn therefrom by the State of Texas for other pur-

poses than those pertaining to the University, and to provide for the payment of the interest due thereon, was submitted to the senate, and on motion of Senator Armistead was laid on the table subject to call.

(The bill had already failed in the house.)

May 12, Senator Jarvis, as chairman of the finance committee, reported a substitute for sundry house bills: An act making additional appropriations for the support of the State government and to pay certain obligations of the State incurred prior to March 1, 1887, including as the eighth item in the bill the following: (8.) As a loan to the available fund of the University of Texas, to be placed to the credit of said fund, out of the indemnity fund now in the State treasury, and to be repaid to the State out of the revenues of the University on or before January 1. A. D. 1900, the sum of \$75,000.

This committee amendment was, with some of the others, adopted, and the bill passed to its third reading.

On motion of Senator Armistead, the senate refused to concur in the house amendments to senate bill No. 12, known as the University bill, and asked for a free conference committee. The president appointed Senators Simkins, Douglass of Jefferson, Upshaw, Claiborne and Woods on the part of the senate.

A message from the house announced that the house refused to concur in the senate amendments to the substitute house bills, making additional appropriations for the support of the State government, etc., (being the bill including a loan to the University) and asked for a free conference committee.

The committee of free conference reported as follows as to the University appropriation:

Strike out "\$75,000" and insert "\$125,000" as a loan to the University payable on or before January 1, 1910, without interest, of which the sum of \$50,000 is hereby appropriated and set apart to be used in the construction of buildings for the medical branch of the University of Texas, at the city of Galveston: provided, that the said city of Galveston shall donate to the University of Texas, block No. 668, in said city, to

be used for the medical branch of said institution, and, provided further, that the executors of the estate of John Sealy, deceased, shall agree to construct on said block, at a cost of not less than \$50,000, a medical hospital which when completed is to be donated to the medical branch of the University of Texas and to be under the control of the Board of Regents of said University; provided further that this loan shall be in full payment and satisfaction of all claims of the University of Texas for moneys drawn from the University fund by said State. All of which is respectfully submitted.

JARVIS,

McDONALD,

GLASSCOCK,

LANE,

GRESHAM,

ALEXANDER,

ARMISTEAD,

McGEEHEE,

(Senate Committee.) (House Committee.)

On motion of Senator Jarvis the report of the committee was adopted.

In the House, in Extra Session, the following measures were introduced:

House bill No. 4.—Mr. Hudgins;

To repay to the fund of the University of Texas divers amounts of money drawn therefrom by the State of Texas for other purposes than those pertaining to the University, and to provide for the payment of interest due thereon.

House bill No. 7.—Mr. Gresham:

Making an appropriation to pay to the University of Texas certain moneys due it by the State, and applying a portion of the same for the building of the medical branch of said University at Galveston.

House bill No. 93.—Mr. McGaughey:

To loan to the available fund of the University of the State of Texas, one hundred thousand dollars out of the indemnity fund.

Secretary Boynton of the senate announced to the house that the senate had passed Senate bill No. 12: An act to repay the funds of the University of Texas divers amounts of money drawn therefrom by the State of Texas for other purposes than those pertaining to the University, and to provide for the payment of interest due thereon.

The McGaughey bill which proposed a loan of \$100,000 for an indefinite time and without interest for erecting University buildings at Austin was not taken from the calendar.

The other bills were reported and acted on as follows:

COMMITTEE ROOM, AUSTIN, April 25. 1888.

Hon. George C. Pendleton, Speaker of the House of Representatives.

SIR—Your committee on education, to whom was referred House bill No. 4, entitled: An act to repay to the funds of the University of Texas divers amounts of money drawn therefrom by the State for other purposes than those pertaining to the University, and to provide for the payment of interest due thereon, have had the same under consideration, and instruct me to report it back to the House with the recommendation that it do pass, the right being reserved by several members of the committee to oppose and vote against any item in the claim that they considered not due, and unjust. All of which is respectfully submitted.

PAGE, Chairman.

Mr. Gresham moved to take up the committee's substitute House bills Nos. 7, 18, 30, 47, 50, 53, and substitute Senate bills 11 and 20, a bill to be entitled an act making additional appropriations for the support of the State government for the period of time beginning March 1, 1888, and ending February 28, 1889, and to pay certain obligations of the State incurred prior to March 1, 1887, and have the same, and committee report, printed in the Journal, and made the special order from day to day until disposed of. The motion prevailed, and it was so ordered.

The University item in the bill was as follows:

To pay to the University of Texas:

	Permanent fund.	Available fund.
The amount borrowed by the State under the act of the legislature, approved January 29, 1861	\$ 9,786 62	
Interest on same at 6 per centum per annum, from January 29, 1861, to May 1, 1888		16,005 16
The amount borrowed by the State under the act of the legislature, approved January 9, 1862	1,520 40	
Interest on same at 6 per centum per annum, from January 9, 1862, to May 1, 1888		2,400 00

	Permanent fund.	Available fund.
The 10 per cent interest bearing warrants of the State of Texas dropped from the credit of the University fund on the books of the comptroller of the State of Texas in 1866.....	12,230 39	
Interest on the same from June 1, 1865, to May 1, 1888.....		28,280
The money drawn from the University fund under the acts of the legislature, approved April 29, 1879, July 9, 1879, and April 1, 1881, for the Prairie View Normal school.....		14,495 73
Interest on same from April 1, 1881, to May 1, 1888..		6,160 70
To pay the sum taken from the University fund May 30, 1863.....	40,000 00	

The sum of fifty thousand dollars of the available portion of the money hereby appropriated to the University of Texas, be, and the same is hereby appropriated and set apart to be used in the construction of buildings for the medical branch of the University of Texas at Galveston; provided, that the said city of Galveston shall donate to the University of Texas block No. 668 in said city, to be used for the medical branch of said institution; and provided further, that the executors of the estate of John Sealy, deceased, shall agree to construct on said block, at a cost of not less than fifty thousand dollars (\$50,000) a medical hospital which, when completed, is to be donated to the medical branch of the University of Texas, and to be under the control of the board of regents of said University; provided, that the allowance of the above and foregoing claims to the University is hereby declared to be in full satisfaction of the claims of said University against the State.

The speaker laid before the house for its consideration, House bill No. 4: A bill to be entitled an act to repay to the University of Texas divers amounts of money drawn therefrom by the State of Texas for other purposes than those pertaining to the University, and to provide for the payment of interest due thereon.

The question being on the second reading of the bill, Mr. Steele moved that the absentees, under the call of the house, be excused, and the yeas and nays being called, the motion was lost by the following vote: Yeas, 42; Nays, 30; Absent, 7; Excused, 4.

Mr. Buchanan moved to postpone indefinitely the further consideration of the pending bill, and Mr.

Alexander moved to amend Mr. Buchanan's motion by laying the bill on the table subject to call. Mr. Buchanan accepted Mr. Alexander's amendment.

Mr. Bell of Cooke, moved to amend the motion by setting the bill as a special order for May 7, and from day to day thereafter until disposed of. Carried.

Mr. Page, chairman of the committee on education, submitted the following report:

COMMITTEE ROOM, AUSTIN, May 5, 1888.

Hon. Geo. C. Pendleton, Speaker of the House.

SIR:—Your committee on education, to whom was referred Senate bill No. 12, entitled: An act to repay the funds of the University of Texas divers amounts of money drawn therefrom by the State of Texas for other purposes than those pertaining to the University, and to provide for the payment of the interest thereon, have had the same under consideration, and instruct me to report it back to the house with the recommendation that it do pass. All of which is respectfully submitted.

PAGE, Chairman.

The speaker laid before the house for its consideration House bill No. 4: An act to repay to the funds of the University of Texas divers amounts of money drawn therefrom by the State for other purposes than those pertaining to the University, and to provide for the payment of interest due thereon.

The question being on the second reading of the bill, as special order, Mr. Hudgins moved that the special order be postponed and that Senate bill No. 12, above reported, be taken up and substituted for House bill No. 4. Carried.

Mr. Booth of Wise, moved that the house go into the committee of the whole for the further consideration of the bill. The motion prevailed and the speaker called Mr. Booth to the chair.

After due consideration, the committee of the whole house arose, and through its chairman, submitted the following report:

COMMITTEE ROOM, AUSTIN, May 5, 1888.

Hon. George C. Pendleton, Speaker of the House of Representatives.

Sir—Your committee of the whole house, to whom

was referred Senate bill No. 12, after duly considering the same, instruct me to report it back to the house, with the following amendments: Amend by adding after the items \$1,520.40, the following amount transferred to the general revenue by the comptroller, May 30, A. D. 1863, \$25,500. Amend line 12, by striking out \$63,519.41, and insert \$49,519.41. Your committee ask leave to sit again. BOOTH of Wise, Chairman.

The committee of the whole finally reported, with recommendation that the bill do pass, with the following committee amendments:

Amend line 5, section 2, by striking out "eight" and insert "six," and insert "\$2,400."

Amend line 4, section 2, by striking out "eight" and insert "six," making the sum total \$16,005.16.

Amend by striking out lines 7 and 8, of section 2.

Amend by striking out in lines 12 and 13, section, 2, "\$131,449.46," in figures and words, and insert "46.-433.16."

Strike out "Together with interest thereon at 8 per cent from April 1, A. D. 1881, to May 1, A. D. 1888, amounting to \$8,214.26."

Amend section 2, by adding after the word "together," in line 18, page 2, the following: "With interest thereon at the rate of 6 per cent per annum from April 1, 1881, to May 1, 1888, amounting to the sum of \$6,160.70," and strike out all of lines 21 and 22, and to the word "cents," in line 23.

Amend by adding to the end of section 3: Provided, that the payment and satisfaction of the several items of debt, here recognized and discharged, will be a perpetual and final bar to any and all future claims of the University of the State of Texas, for moneys drawn from the University funds prior to the year A. D. 1866.

Amend by adding section 3, to read as follows: Section 3—The sum of \$50,000 of the available portion of the money hereby appropriated to the University of Texas be, and the same is hereby, appropriated and set apart to be used in the construction of buildings of the medical branch of the University of Texas at the city of Galveston; provided, that the said

city of Galveston shall donate to the University of Texas, block No. 668, in said city, to be used for the medical branch of said institution; and provided further, that the executors of the estate of John Sealy, deceased, shall agree to construct on said block, at a cost of not less than fifty thousand dollars, a medical hospital, which, when completed, is to be donated to the medical branch of the University of Texas, and to be under the control of the board of regents of said University.

Amend section 2 by adding after the word together in line 18, page 2 the following. With interest thereon at the rate of 6 per cent per annum from April 1, 1881 to May 1, 1888, amounting to the sum of six thousand one hundred and sixty dollars and seventy cents, and strike out all of lines 21, 22, and to the word cents in line 23.

The speaker announced that the pending business on adjournment was the consideration of substitute Senate bill No. 12, for House bill No. 4.

Mr. Johnson offered the following amendment to section 2 of the bill: Amend section 2 of the bill by striking out the words "available University fund," and insert therefor the words "permanent University fund." Provided, that the amount of fourteen thousand and four hundred and ninety-five dollars and seventy-three cents, the amount paid to the Prairie View Normal School, be paid back to the available fund of the University.

The question recurring on Mr. Johnson's amendment, and the yeas and nays being demanded the amendment was lost by the following vote. Yeas—18, Nays—74, Absent—5, Excused—7.

Mr. Utiger offered the following amendment: Strike out "permanent University fund" and insert "available University fund" wherever it occurs. Lost.

Mr. Hudgins offered the following amendment: Strike out the entire item relating to amount transferred to general revenue by the comptroller on May 30, 1863.

Mr. Steele offered the following substitute for the pending amendment: Amend section 1 by striking out

in line 7, the amount \$25,000 and insert in lieu thereof \$5.00. The speaker ruled the substitute for the amendment out of order.

The question then being the adoption of the amendment offered by Mr. Hudgins, the amendment was adopted.

Mr. Bell of Cooke offered the following substitute for the pending bill and amendments:

A bill to be entitled: An act to compensate the available University fund for moneys heretofore used by the State for various purposes, and all claims for moneys and lands heretofore used by the State.

Section 1. Be it enacted by the legislature of the State of Texas, that the sum of one hundred thousand dollars of the indemnity fund received from the United States government in the year of 1888, be, and the same is hereby loaned to the available University fund, said fund to be used in the erection of necessary buildings and purchasing necessary apparatus and books for the use of the University at Austin, Texas. Said loan to be paid back to the State at such time as the available University fund may be able to do so, as the law may direct. This loan is made as a compromise and satisfaction of all claims for moneys or lands or the proceeds thereof heretofore used by the State for any purpose, which belonged to the University, and the acceptance of the moneys herein appropriated or any part thereof shall be a full and final settlement of all such demands.

The question being the adoption of the substitute for the pending bill and amendment, Mr. Prendergast moved that the pending bill and amendments and the substitute bill offered by Mr. Bell of Cooke, be referred to a special committee of five members, with instructions to report immediately on the same.

The question then recurring on Mr. Prendergast's motion to refer the pending bill, amendments and substitute to a special committee, Mr. Prendergast withdrew his motion to recommit, and the question recurring on the adoption of Mr. Bell's substitute for the pending bill and amendments, the substitute was lost.

Mr. Johnson offered the following substitute for

the pending bill and amendments—A bill to be entitled: An act to provide for a loan out of the general revenue to the available University fund, and to provide for the repayment thereof.

Section 1. Be it enacted by the legislature of the State of Texas: That the sum of one hundred thousand dollars be and the same is hereby advanced out of the general revenue fund to the available University fund: The said amount shall be considered as a loan to said fund, and shall be repaid out of the available University fund, without interest, on or by the 1st day of January, (1903), nineteen hundred and three, and the regents of said University shall make provision therefor, and the same shall not be offset by any claims heretofore presented to the legislature for payment.

Section 2. The near approach of the end of the session, and the fact that the University is in immediate need of funds, creates an emergency that the constitutional rule requiring bills to be read on three several days be suspended, and that this bill take effect on and after its passage, and it is so enacted.

The question being the adoption of the substitute bill for the pending bill and amendment, Mr. Mills moved the previous question on the substitute, which was duly seconded and the previous question was ordered.

The question then being the adoption of the substitute bill, and the yeas and nays being demanded, the substitute was lost by the following vote: Yeas—22, Nays—68, Absent—6, Excused—7. Paired, Mr. Graves with Mr. Chrisenberry, who would have voted, the former, yea, the latter, nay.

Mr. Mills moved the previous question on the passage of the bill to a third reading, which was duly seconded, and the previous question was ordered.

The question being the passage of the bill to a third reading, and the yeas and nays being called, the bill was passed by the following vote:

Yeas—65. Alexander, Baird of Brown, Biard of Lamar, Bassett*, Battle, Baylor, Bell of Denton, Blair,

* Messrs. Bassett of Grimes county, and Moore of Washington county, were the only colored members of the Twentieth legislature.

Booth of Wise, Bransford, Browning, Bryan, Buchanan, Camp, Clark of Red River, Clark of Uvalde, Clegg, Cone, Davis of Falls, Davis of Shelby, Dolen, Ellison, Faubion, Fuller, Garner, Garwood, Gresham, Groce, Harrison, Heath, Hudgins, Huling, Humphreys, Kirlicks, Kennedy, Larkin, Latham, Light, McCaleb, Matejowsky, McGaughey, McGehee, McGuire, McKinney, Melson, Milner, Moore of Travis, Moore of Washington, Newton of Cherokee, Northington, Payne, Pope, Richardson, Robinson, Sadler, Shelburne, Smith of Travis, Staples, Strong, Tate, Utiger, Waskom, Whatley, Williamson, Woolsey.

Nays—26. Chapman, Curry, Gilleland, Hargis, Jackson, Johnson, Jones, McClanahan, Mills, Newton of Tarrant, Nicholson, Page, Parks, Patterson, Prendergast, Rugel, Shield, Skinner, Smith of Bosque, Steele, Tolbert, Tompkins, Voorhees, Wilson, Wood, Wright.

Absent—4. Bell of Cooke, Goeth, Hunt, Sharp.
Excused—5. Parker, Showalter, Latimer, Stringer, Truitt. Mr. Booth of Gonzales, was paired with Mr. Gill. Mr. Booth would vote aye, Mr. Gill would vote nay. Mr. Chrisenberry was paired with Mr. Graves. Mr. Chrisenberry would vote aye, Mr. Graves would vote nay.

We vote nay on the University bill, because the enactments are in violation of law in this, that the ordinances of the constitution of 1866 declare that the sum named in the bill should not be paid, and, because the State has discharged her moral obligation to the University by donating 1,000,000 acres of public land and \$264,000 cash, in addition to the endowment originally given; and which donation amounts to more than the aggregate of the sums claimed by the University as being unpaid by the State. The University is not as much in need of assistance as the people are for relief from taxation.

JACKSON,
VOORHEES,
SKINNER.

The speaker laid before the house for its consideration substitute house bills Nos. 7, 18, 30, 47, 50, 53 and substitute senate bills Nos. 11 and 20, a bill to be enti

tled an act making additional appropriations for the support of the State government for the period of time beginning March 1, 1888, and ending February 28, 1889, and to pay certain obligations of the State incurred prior to March 1, 1887, the special order for the hour.

The question being on the adoption of the substitute reported by the senate committee, it was adopted.

Mr. Gresham moved that the house go into the committee of the whole on the further consideration of the bill. The motion prevailed, and the speaker called Mr. Alexander to the chair.

After due consideration the committee of the whole house arose and reported with accompanying amendments, and asked leave to sit again.

The speaker called Mr. Browning to the chair, the house being again in committee of the whole, and after due consideration recommended that the bill pass with amendments reported. None of the amendments related to the University.

The speaker being in the chair, Mr. Bell of Cooke moved for a division of the amendments adopted in the committee of the whole house and the motion prevailed.

Mr. Bell of Cooke moved a call of the house on the amendment relative to the appropriation of \$15,000 for the Orphans' Asylum at Corsicana, but failing to receive the constitutional second the motion was lost.

Mr. Voorhees offered the following amendment to the amendment of the committee of the whole house, relative to the appropriation of \$25,000 for the Prairie View Normal School: Amend page 4, lines 2 and 3, by striking out \$25,000, and inserting \$15,000.

The speaker ruled the amendment of Mr. Voorhees out of order, and the question then being the adoption of the committee amendment, and the yeas and nays being called, the amendment was adopted by the following vote: Yeas—59, Nays—30, Absent—9, Excused—6.

The house having adopted all of the amendments of the committee of the whole to substitute House bill

Nos. 7, 18, 30, 47, 50 and 53 and substitute Senate bills Nos. 11 and 20, a bill to be entitled, An act making additional appropriations for the support of the State government for the period of time beginning March 1, 1888, etc., the speaker announced the question to be the passage of the bill to engrossment, and the yeas and nays being called, the bill passed to engrossment by the following vote. Yeas—79, Nays—15, Absent—4, Excused—5.

Mr. Steele moved that the constitutional rule requiring bills to be read on three several days be suspended, and that the bill be placed on its third reading and final passage. The yeas and nays being called, the motion prevailed and the rules were suspended. Yeas—78, Nays—13, Absent—6, Excused—6.

The question then recurring on the final passage of the bill, and the yeas and nays being called, the bill passed by the following vote:

Yeas—74. Alexander, Baird of Brown, Biard of Lamar, Bassett, Baylor, Bell of Denton, Blair, Booth of Gonzales, Booth of Wise, Browning, Bryan, Buchanan, Camp, Clark of Red River, Clark of Uvalde, Clegg, Cone, Davis of Shelby, Dolen, Ellison Faubion, Fuller, Garner, Garwood, Gilleland, Goeth, Gresham, Groce, Heath, Hudgins, Huling, Humphreys, Hunt, Jackson, Johnson, Kennedy, Kirlicks, Larkin, Latham, Light, Motejowsky, McCaleb, McClanahan, McGaughey, McGehee, McGuire, McKinney, Mills, Milner, Moore of Washington, Newton of Cherokee, Nicholson, Parks, Payne, Pope, Prendergast, Richardson, Robinson, Sadler, Sharp, Shelburn, Smith of Bosque, Smith of Travis, Staples, Steele, Stringer, Strong, Tate, Utiger, Voorhees, Waskom, Whatley, Williamson, Woolsey.

Nays—17. Bell of Cooke, Bransford, Chapman, Curry, Hargis, Harrison, Jones, Melson, Newton of Tarrant, Page, Rugel, Shield, Skinner, Tolbert, Wilson, Wood Wright.

Absent—7. Battle, Chrisenberry, Davis of Falls, Moore of Travis, Northington, Patterson, Tompkins.

Excused 6. Gill, Graves, Latimer, Parker, Showalter, Truitt.

I vote nay on this bill because it contains some

items not necessary for the economical administration of the government.

WOOD.

We vote nay on the appropriation bill because we believe a part of the bill makes extravagant appropriations not warranted by law and facts.

CHAPMAN,
JONES,
MELSON.

Mr. Harrison for the committee on engrossed bills, reported the bill correctly engrossed.

Mr. Browning, speaker pro tem., signed in the presence of the house, House bill No. 1: A bill to be entitled an act to reduce taxation for general revenue purposes, and laid before the house for its consideration substitute Senate bill No. 12 for House bill No. 4:

An act to repay the funds of the University of Texas divers amounts of money drawn therefrom by the State of Texas for other purposes than those pertaining to the University, and to provide for the payment of the interest due thereon.

The question then recurring on the final passage of the bill, and the yeas and nays being called, the bill was passed by the following vote:

Yeas—60.

Alexander,	Kennedy,
Baird of Brown,	Kirlicks,
Biard of Lamar,	Larkin,
Basset,	Latham,
Baylor,	Light,
Blair,	Matejowsky,
Browning,	McCaleb,
Bryan,	McGaughey,
Buchanan,	McGehee,
Camp,	McGuire,
Chrisenberry,	McKinney,
Clark of Red River,	Melson,
Clark of Uvalde,	Milner,
Clegg,	Moore of Washington,
Cone,	Newton of Cherokee.
Davis of Falls,	Northington,
Davis of Shelby,	Payne,
Dolen,	Richardson,

Faubion,	Robinson,
Fuller,	Sadler,
Garner,	Sharp,
Garwood.	Shelburne,
Gilleland,	Stringer,
Gresham,	Strong,
Harrison,	Utiger,
Heath,	Waskom,
Hudgins,	Whatley,
Huling,	Williamson,
Humphreys,	Woolsey.

Nays—28.

Bell of Cooke,	Page,
Bransford,	Patterson,
Chapman,	Prendergast,
Curry,	Rugel,
Graves,	Shield,
Hargis,	Skinner,
Jackson,	Smith of Bosque,
Johnson,	Steele,
Jones,	Tolbert,
McClanahan,	Tompkins,
Mills,	Voorhees,
Newton of Tarrant,	Wilson,
Nicholson,	Wood,
Parks,	Wright.

Absent—3. Bell of Denton, Tate, Staples. Excused—10. Battle, Ellison, Groce, Latimer, Moore of Travis, Parker, Pope, Showalter, Smith of Travis, Truitt.

Mr. Booth of Gonzales paired with Mr. Gill. Mr. Booth would vote yea; Mr. Gill would vote nay. Mr. Goeth paired with Mr. Hunt. Mr. Goeth would vote yea, and Mr. Hunt would vote nay.

The speaker laid before the house for its consideration substitute House bills Nos. 7, 18, 30, 47, 50, 53, and substitute Senate bills 11 and 20, a bill to be entitled: An act making additional appropriations for the support of the State government for the period of time beginning March 1, 1883, and ending February 28, 1889, and to pay certain obligations of the State

incurred prior to March 1, 1887, with senate amendments.

Mr. Gresham moved that the house do not concur in the senate amendments and that a free conference committee of five members of the house be appointed to confer with a like committee from the senate.

The motion prevailed and Speaker Pendleton appointed the committee on the part of the house.

[PRIVILEGED REPORT.]

Mr. Gresham for the free conference committee on House bills Nos. 7, 18, 30, 47, 50 and 53 and substitute Senate bills Nos. 11 and 20, subnitted the following report:

COMMITTEE ROOM, Austin, May 15, 1888.

Hon. T. B. Wheeler, President of the Senate, and Hon. George C. Pendleton, Speaker of the House of Representatives.

Sir—Your committee of free conference, to whom was referred the differences between the two houses on substitute House bills Nos. 7, 18, 30, 47, 50 and 53, and substitute Senate bills Nos. 11 and 20, entitled:

An act making additional appropriations for the support of the State government for the period of time beginning March 1, 1888, and ending February 28, 1889, and to pay certain obligations of the State incurred prior to March 1, 1887, have had the same under consideration and beg to report as follows:

The senate recedes from its amendment in reference to the reformatory.

The Senate quarantine amendment is concurred in.

The senate amendment for moving to the new capitol is concurred in.

The senate amendment paying county clerks, to be amended to read "ten cents per hundred to be paid out of school fund."

The senate amendment paying officers in escheated cases and senate amendment to purchase library for consultation room to be concurred in.

Strike out \$75,000 and insert \$125,000 as a loan to

the University, payable on or before January 1, 1910, without interest, of which the sum of \$50,000 is hereby appropriated and set apart to be used in the construction of buildings for the medical branch of the University of Texas, at the city of Galveston; provided that the said city of Galveston shall donate to the University of Texas block No. 668, in said city, to be used for the medical branch of said institution, and provided further, that the executors of the estate of John Sealy, deceased, shall agree to construct on said block, at a cost of not less than \$50,000, a medical hospital, which, when completed, is to be donated to the medical branch of the University of Texas, and to be under the control of the board of regents of said University; provided further that the loan shall be in full payment and satisfaction of all claims of the University of Texas, against the State of Texas for moneys drawn from the University fund by said State.

Strike out \$6,500 for land office, and insert \$3,000 for repairs of building, and that the house concur in the eighth senate amendment.

All of which is respectfully submitted.

Jarvis,

Gresham,

McDonald,

Alexander,

Glasscock,

Prendergast,

Lane,

Nicholson,

Armistead,

McGehee,

(For the Senate.)

(For the House.)

Mr. Hudgins moved that the report of the free conference committee be adopted, and Mr. Mills moved the previous question on the adoption of the free conference committee's report, which prevailed, and the main question was ordered.

The question then being the adoption of the free conference committee's report, and the yeas and nays being called the report was adopted by the following vote:

Yeas—69.

Alexander,

Kirlicks,

Baird of Brown,

Latham,

Biard of Lamar,

Light,

Bassett,

Matejowsky,

Baylor,	McCaleb,
Bell of Denton,	McClanahan,
Blair,	McGaughey,
Booth of Gonzales,	McGehee,
Browning,	McGuire,
Bryan,	Melson,
Buchanan,	Milner,
Camp,	Moore of Travis,
Chrisenberry,	Moore of Washington,
Clark of Red River,	Newton of Cherokee,
Clark of Uvalde,	Nicholson,
Clegg,	Northington,
Cone,	Payne,
Curry,	Pope,
Davis of Falls,	Prendergast,
Davis of Shelby.	Richardson,
Dolen,	Robinson,
Ellison,	Sadler,
Faubion.	Sharp,
Fuller,	Shelburne,
Garner,	Showalter,
Garwood,	Smith of Travis,
Gilleland,	Stringer,
Goeth,	Strong,
Gresham.	Tate,
Harrison,	Utiger,
Heath,	Waskom,
Hudgins,	Whatley,
Huling,	Williamson,
Jackson,	Woolsey,
Kennedy.	

Nays—24.

Bell of Cooke.	Patterson,
Bransford.	Rugel,
Chapman,	Shield,
Graves.	Skinner,
Hargis.	Smith of Bosque,
Hunt,	Steele,
Johnson,	Tolbert,
Jones,	Tompkins,
Mills,	Voorhees,

Newton of Tarrant,

Wilson,

Page,

Wood,

Parks,

Wright,

Absent—4. Battle, Humphreys, McKinney and Staples. Excused—7. Booth of Wise, Gill, Groce, Larkin, Latimer, Parker, Truitt.

The bill recommended by the free conference committee passed and was signed by the speaker of the house.

QUESTION OF CONFEDERATE MONEY.

In connection with the report of the regents as to the University claims presented in the correspondence with Governor Ross, it is due to them to explain that the statement was rendered in compliance with the request of the governor to show the full extent to which the State had used University funds, rather than with any expectation, or as a demand, as some of the members of the legislature intimated, that the State should allow all the items, with interest, especially the large amount \$138,687.53 interest on the Confederate notes turned over to the Confederate States depository. As the State, however, had sold University lands for the Confederate money, so that the University was deprived of the land, the amount was as justly due, so far as the University was concerned, as if the land had been sold for specie, as the money served the purposes of the State, and the University was not even organized to be in any way concerned with the war. Still the argument was made that the acts of reconstruction prohibited the State from paying any debt involving Confederate money.

THE UNIVERSITY CLAIMS.

In noticing the University claims, the San Antonio Express thus argued the question of allowing them: "Among the items of the University claims is one for forty thousand dollars of University funds, which, as shown by the comptroller's books, was transferred to State revenue account, May 30, 1863, with this note of entry: 'This amount is transferred by order of the comptroller.' As far as known, there was no other

authority for the transfer, and for this reason some members of the house contend that the money should not be refunded to the University, and the University bills, while allowing \$25,500 of the \$40,000, disallows any interest, which, as the claim happens to be an old one, amounts to \$74,800.

"The reason assigned for reducing the amount of the principal is that only \$25,500 is actually shown to have been used by the State; but as the the whole amount \$40,000, was transfered to the State fund, it is very properly claimed that the State is responsible to the University to the full amount, no matter what use the State made of the money or any part of it, as the transfer was the act of the comptroller, whose acts are constructively the acts of the State. The law as to the act of an agent, exceeding his authority, not binding the principal, does not apply, for the comptroller is something more than a mere agent. He is part and parcel of the State's governmental entity, a bonded officer of the government whose acts and bond bind him for the State's protection and its faithful guardianship of such interests, especially fiduciary trusts, as the State is bound to protect. His acts in the range of his department are as binding as the acts of the governor or the legislature. He cannot exceed his authority within the pale of his official duties without morally as well as legally binding the State to protect interests confided to its care, and especially such fiduciary trusts, as the University fund for which the State is trustee. How then can the State claim that under the act of its own officer, it is not responsible to the University for the whole amount of \$40,000?

"As to not allowing interest on the entire sum on the ground that there happened to be no interest expressed in the exparte transaction when the State of its own motion took the money without the consent of the University, such a position is a mere subterfuge for not doing justice to the University. Gentlemen taking such a position may argue ever so plausibly about there being no law or precedent for the State to allow interest on open accounts or ordinary claims against the State, but they can show none for refusing interest on

borrowed trust funds, as in this case. Besides interest which is the recognized penalty for the use of money, is implied unless it is expressly stipulated that none is to be allowed."

All that the State would do, however, as to these old claims was to treat them in lump so as to avoid acknowledging any separate indebtedness for any of them, and to discount the whole business by making the University the remarkable "loan of \$125,000, to be in full settlement of all demands of the University against the State," which was certainly an ingenious and very convenient mode of disposing of the vexed question, in a legislative way. Legislatures can be mighty clever sometimes, but are noted the world over for sharp devices, when they wish to evade obligations, and for the plenary powers they can exercise, by pleading the right of might or State sovereignty, to enforce their expedients in the very face of present right and justice, and all under the pretext of avoiding the establishment of precedents for future demands against the State, as though one legislature could inevitably bind another by any speciousness of enactments. Another cunning feature in making it "a loan" and possibly so intended, was to enable future legislatures to claim, should the management of the institution displease them, that no precedent was fixed, by a mere loan, for appropriating general revenue to the University, and require the money to be returned by taking it out of the University fund, or make the loan an excuse for refusing further appropriations to the institution. * This loan was the act of the Twentieth legislature, and the next legislature, even to help the University finish its main building at Austin, had to guard its appropriation of \$25,000 from general revenue, to afford ready means for the University's purpose, by expressing it as for "support of the University," and requiring that "the University should use a like

* It is unfortunately too true that the State has the power to "spank" the University, or any other State institution, as it chooses, and the writer is well enough aware that the plea of State sovereignty is generally regarded as sufficient justification for any act of the State, but it is against the brutal exercise of such a right, when so palpably unjust to the State's own institutions, that he is pleading.

amount of its available fund to finish the building." So a future legislature may claim that it was no direct appropriation, but simply a loan, or substitution or exchange of funds. The regents, however, regard the acts of the two legislatures, relatively considered, as setting a precedent for further State aid for the support of the University, independent of the University fund, and the probability is that the appropriations, though guised as loans, will stand as donations, and that the University, now grown into favor and popularity, despite all opposition, will get material relief when needed, and without so much contention in the future, by appropriations, either from the general revenue or general school fund.

Latterly, too, there has been noticeable a better state of feeling prevailing between the authorities of the college and those of the University, and withal, a more liberal spirit towards the University on the part of the dominant power in the legislature. It is anticipated also that the recent popular appointment of Governor Ross to the presidency of the college, will serve to promote further harmony of interests between the legislature and the college and the University.

LAND COMMISSIONER'S STATEMENT

Capt. W. C. Walsh, who was for ten or twelve years State land commissioner, furnishes the author the following statement showing how largely the University's landed interests have been sacrificed by the action of the State:

"The land legislation of the State of Texas so far as it affects the University, has been a series of errors, if we may be charitable enough to so describe a succession of laws which have stripped the University of what would have been an ample endowment.

"The fathers of the Republic of Texas before they had fairly escaped from the dominion of Mexico granted to the future University, fifty leagues, (221,400 acres) of land. These leagues were located largely in Cook, Clay, Grayson and McLennan counties. Having been selected at an early day, they embraced the choicest lands in the republic and as the country set-

tled up they were coveted and squatted on by home seekers. The influence of these settlers secured the passage of several acts providing for the subdivision and sale of the fifty leagues. They were cut up into quarter sections and sold to actual settlers at \$1.50 per acre on ten years time with 10 per cent interest. The statutes of the State from that date until the adoption of the constitution of 1876, will show at each succeeding session. 'An act for the relief of purchasers of University lands.'

"The object and effect of these various laws was to cancel previous obligations of purchasers, remit due interest and allow a repurchase at original price. The result was to finally dispose of these valuable lands at a price far below their actual value and to deprive the University of a large sum due for interest. In addition to these losses, a conflict with an old Mexican grant in McLennan county, caused the loss of several thousand acres.

"In 1854, the State provided for a subsidy of sixteen sections of land per mile for construction of railroads, to be located in alternate sections; i.e, for each of the sixteen sections surveyed for the railroads a section adjoining should be surveyed for the common schools. It was further provided by act of 1858 that every tenth section, so surveyed for education, should be set aside for the University. Under this statute the University was entitled to something over 1,000 acres of land for each mile of railroad built, and the law remained in force until repealed by the constitution of 1876. At the date of this repeal the railroads had received grants for near 1,800 miles of road, and the University was then entitled to something over 1,750,000 acres of land. These locations, it must be remembered were not grazing lands on the plains, but were situated in such counties as Dallas, Navarro, Ellis, Bell, Harris, Williamson, Fort Bend, etc., embracing the choice agricultural lands of the State. The constitutional convention stripped the University of this magnificent endowment, and substituted therefor 1,000,000, acres which when surveyed, could only be secured in Tom Green and Crockett counties, where the lands were all so

much less valuable than in the other counties. Thus 1,750,000 acres, worth then an average of \$5 per acre, were taken away, and 1,000,000 acres at 50 cents was substituted. In the selection of this western land, it was discovered that about 25,000 acres of irrigable land, situated on the Rio Grande, below El Paso, was wrongfully claimed by speculators, under a grant already satisfied, and this amount was embraced in the land surveyed for the University. If proper steps had been taken by the State, this land might now be yielding a handsome revenue; but the blight which seems to rest upon all University lands, has settled on this, and so far nothing has been done to assert the right of the University.

"In conclusion let us sum up what the University should have had, if the intentions of our early legislators had been respected:

Fifty leagues at \$1.50 per acre	\$ 332,100
Ten years interest at 10 per cent	332,100
One million seven hundred and fifty thousand acres at \$5.00 per acre	8,750,000
Interest on deferred payments (say 25 per cent)	2,187,500
Total	<u>\$11,601,700</u>

It is doubtful if the University will realize 10 per cent of this amount from land donations. Twelve million dollars will probably not more than cover a close estimate."

Capt. Walsh further states that he called the attention of Gen. Darnell and other prominent members of the convention of 1875, to the fact that the million of acres, proposed to be substituted to the University, for the railroad alternate lands, would not be an equivalent, by a rate of five to one, either in quantity or quality, for the original grant, but the convention seemed determined to make the substitution in the interest of the free public schools. Gen. Darnell, in fact, suggested to him that "a million acres of land was enough for any kid glove institution."

ACTION OF THE UNIVERSITY REGENTS.

As has been seen all along in the course of this history of the University, the regents have been powerless to prevent aggressive action by the legislature

towards the institution. They have not been indifferent to their duties, however, as already shown, in presenting the facts and pressing upon public attention the University's financial and landed interests. As further evidence of this some extracts from the record of their proceedings are of important interest.

At their meeting, September 17, 1889, the following resolution offered by Regents Todd and Simkins, was adopted:

"Whereas, there are outstanding land notes belonging to the permanent University fund aggregating some \$110,200, upon which there is due a large amount of unpaid interest, most of which extends back to the past ten years; and whereas, the purchasers of said lands are claiming that said interest is barred, and are refusing to pay the same and there is imminent danger that longer delay may cause considerable loss to the University fund; and whereas, the State treasurer has been, and is unable to collect the same by written demand on said parties; therefore, be it resolved, by the board of regents of the State University, that the attorney general be, and he is hereby requested to take immediate steps for the purpose of collecting said interest, or establishing the same as a debt upon the lands, or else cancel said contract, and recover said lands."

Again at their meeting February 11, 1890: "Regent Wooten reported that the attorney general was disinclined to sue upon the past due land notes of the University, the ground of objection being that it would necessitate many suits in many different and distant parts of the State, to be conducted in many instances by either unreliable or incompetent persons."

"Regent Wooten also reported the opinion of the attorney general to be adverse to our right to demand the issuance of State bonds for the investment of the present uninvested permanent University funds (some \$35,000). The attorney general holds it illegal for the State to issue bonds unless it owes a debt and wishes to borrow funds, and that this is not the present status of the State's financial condition."

"Regent Wooten also reported that Land Commissioner Hall had taken no definite action looking to se-

curing and selling a tract of land belonging to the University in Collin county."

"Regent Prather reported to the effect that the University probably did not get a fair divide in the apportionment of the lands in McLennan county, Texas, heretofore in controversy between the University and certain foreign claimants represented by General Mexia; that the agent of Mexia was very familiar with these lands and rather dictated as it were the division. Mr. J. P. Surratt represented the University's interests; and Mr. Stephen Tuler was appointed by the court. Mr. Surratt endeavored to protect the State's interest, but was rather over reached in the transaction."

As to these proceedings there gents' records further show that Attorney General Hogg subsequently recommended that the suits, referred to in the resolution of Messrs. Todd and Simkins, be instituted, and it is to be presumed that steps for that purpose are being taken by that officer.

As to the question raised by the attorney general, as to the State issuing bonds, it would seem that, while it may be illegal to issue them to create a debt or loan without any basis for them, further than the general credit of the State, the re-issue of bonds for re-investment of funds pledged on any substantial property basis, such as bonds or lands belonging to the University, is hardly creating a debt within the purview and inhibitions of the constitution or statutes of the State; or if such is the case, that the constitution should be amended to make it flexible enough to cover such interests.

ORGANIC LAW AFFECTING THE UNIVERSITY.

Following are the provisions of the organic law (the constitution of 1876) which affects the University.

Sec. 10. The legislature shall, as soon as practicable, establish, organize, and provide for the maintenance, support, and direction of a University of the first class, to be located by a vote of the people of this State, and styled "The University of Texas," for the promotion of literature, and the arts and sciences, including an agricultural and mechanical department.

Sec. 11. In order to enable the legislature to perform the duties set forth in the foregoing section, it is hereby declared that all lands and other property heretofore set apart and appropriated for the establishment and maintenance of "The University of Texas," together with all the proceeds of sales of the same heretofore made or hereafter to be made and all grants, donations, and appropriations that may hereafter be made by the State of Texas, or from any other source, shall constitute and become a permanent University fund. And the same as realized and received into the treasury of the State (together with such sums belonging to the fund as may now be in the treasury), shall be invested in the bonds of the State of Texas, if the same can be obtained; if not, then in United States bonds; and the interest accruing thereon shall be subject to appropriation by the legislature to accomplish the purpose declared in the foregoing section; provided, that one-tenth of the alternate sections of lands granted to railroads, reserved by the State, which were set apart and appropriated to the establishment of "The University of Texas," by an act of the legislature of February 11, 1858, entitled "An act to establish The University of Texas," shall not be included in or constitute a part of the permanent University fund.

Sec. 12. The land herein set apart to the University fund shall be sold under such regulations, at such times, and on such terms, as may be provided by law; and the legislature shall provide for the prompt collection, at maturity, of all debts due on account of University lands heretofore sold, or that may hereafter be sold, and shall in neither event have the power to grant relief to the purchasers.

Sec. 13. The Agricultural and Mechanical College of Texas, established by an act of the legislature, passed April 17, 1871, located in the county of Brazos, is hereby made and constituted a branch of the University of Texas, for instruction in agriculture, the mechanic arts and the natural sciences connected therewith. And the legislature shall, at its next session, make an appropriation, not to exceed forty thousand dollars, for the construction and completion of the

buildings and improvements and for providing the furniture necessary to put said college in immediate and successful operation.

Sec. 14. The legislature shall also, when deemed practicable, establish and provide for the maintenance of a college, or branch University, for the instruction of the colored youths of the State, to be located by a vote of the people; provided, that no tax shall be levied, and no money appropriated out of the general revenue, either for this purpose or for the establishment and erection of the buildings of the University of Texas.

Sec. 15. In addition to the lands heretofore granted to the University of Texas, there is hereby set apart and appropriated, for the endowment, maintenance, and support of said University and its branches, one million acres of the unappropriated public domain of the State, to be designated and surveyed as may be provided by law; and said lands shall be sold under the same regulations and the proceeds invested in the same manner as is provided for the sale and investment of the permanent University fund; and the legislature shall not have the power to grant any relief to the purchasers of said lands.

By an act of the legislature, passed March 30, 1881, the location of the University was submitted to a vote of the people, and provision was made for appointing the regents, who were authorized to contract for a suitable building, to elect a faculty, and to take such action as was necessary for the organization of the University. By this act the University was "open to male and female on equal terms, without charge for tuition."

THE "A. AND M. COLLEGE" BRANCH.

The Agricultural and Mechanical college of Texas owes its foundation and endowment to the act of the United States Congress approved July 2, 1862, amended July 23, 1865, and to a joint resolution of the legislature of Texas, approved Nov. 1, 1856, and an act of the same body approved April 17, 1871.

In his message of April 19, 1876, to the legislature, Governor Coke says: 'In July 18, 1872, a meet-

ing of the board of directors of the Agricultural and Mechanical college, chosen under the act of March 9, 1875, was held in Bryan, near which point the college is situated in Brazos county. The building was found incomplete, and it was the purpose of the board to recommend that an appropriation not to exceed \$40,000 be made by the legislature to complete the building, and until the needed buildings were completed it was not deemed proper to proceed to the selection of a full faculty. The board, however, concluded to elect a president, and they selected for that position the Hon. Jefferson Davis, who, however, was prevented from accepting it, (alluding to Mr. Davis who was the president of the Confederate States.) On this board of directors devolved the duty of making proper regulations as to the admission of students into this institution, and as to the terms of their admission. No final action was taken by the board on this subject, but in view of the fixed and unalterable policy of the State founded upon the best interests of both the white and colored population that white and colored pupils shall not be mingled in the public schools or colleges, they deemed it best to postpone further consideration of the subject until, by legislative action, some other provision could be made for colored pupils and thereby any question as to them avoided.

"Appreciating the wisdom and justice of a proper provision for the the colored pupils, the late constitutional convention in Sec. 14 of Article VII, authorizes the erection and maintenance of a branch University for the education of colored youths. Other states of the South, accepting the donation of congress for the establishment of a college like ours, have made separate provision for the colored youth, and it is recommended that the same be done in Texas. It is desired by the board of Trustees to put the Bryan college in operation at the beginning of the scholastic year in the fall of 1876, and by prompt action the school for colored pupils may commence operations during the ensuing year. The college at Bryan is now complete."

The affairs of the University, in connection with its branch, the Agricultural and Mechanical College.

and the Prairie View school, which was established for the benefit of the colored people, and subjected to the control of the college directors, are interestingly reviewed in the message of Governor Roberts to the Seventeenth legislature.

The support of the Agricultural and Mechanical College is provided for under Sec. 48, Art. 3, of the constitution of 1876; and by Sec. 13 of Art. 7, of the constitution, the college is made a branch of the University. It is further provided for by special endowment of the federal government and the State's acceptance of the provisions of the acts of congress for establishing agricultural colleges and experiment stations in the several States. The college has from its federal donation a productive fund of \$209,000, and has had from the University fund \$86,000, and about \$250,000 from State revenue funds. Its annual income from various sources is about equal to that of the entire University, say \$50,000. It has besides some \$36,000, with some years accumulated interest in reserve funds, which interest can be applied as available resources. The value of its lands and buildings was estimated some years ago at \$204,662 and its permanent equipments at \$34,300. According to State Commissioner Foster's report, 1888, the value of the property of the college was: Grounds and buildings \$260,000, equipments, including stock, machinery, apparatus, library, \$75 000. Altogether it has been quite liberally fostered, and is represented to be in a flourishing condition. * Hon. L. S. Ross, present governor of Texas, who has lately been elected president of the college, has accepted the position, and his acceptance seems to have had an inspiring effect in largely increasing the attendance of students this session, so that greater provision is needed for their accommodation. Under recent act of congress the college

* The value of University property, as stated in Mr. Foster's report, is:

Building and grounds.....	\$200,000
Value of library.....	10,573
Chemical and physical apparatus.....	30,945

Total	\$241,518
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will get \$21,000, which, however, cannot be used for buildings, but only for maintaining means of instruction, so that the State is expected to, and should, and doubtless will, as the college deserves, provide for the additional quarters required.

Following are the estimates and reports of the directors for the A. and M. College and of the Prairie View Normal for colored youths as transmitted to the legislature in special session April 19, 1888:

FOR THE A. AND M. COLLEGE.

For Dormitory.....	\$12,500 00
Assembly hall.....	13,250 00
Furniture.....	2,500 00
Professors' residences.....	9,500 00
Houses for employes.....	3,300 00
Chemical laboratory.....	18,000 00
Repairs of college buildings, agricultural department...	1,800 00
Shops.....	1,000 00
Other college buildings.....	7,400 00
Artesian well and necessary piping.....	7,000 00
Improved Stock.....	3,500 00
Fencing.....	2,500 00
Conservatory.....	2,500 00
Barn for agricultural department.....	2,500 00
Equipment for horticultural department.....	1,000 00
Equipment for mechanical department.....	3,000 00
Equipment for civil engineering department.....	1,000 00
Equipment for drawing department.....	750 00
Equipment for veterinary science department.....	2,500 00
Equipment for chemical laboratory.....	1,000 00
Work stock and farm implements.....	1,000 00
Improvements of college grounds.....	2,500 00
Total.....	\$100,000 00

When the importance of the Agricultural and Mechanical College to the people of Texas, and the necessity of enlarging its facilities and accommodations are considered, I do not think the appropriations asked will be thought large. Technical education is growing in favor in this State, as the annually increasing number of young men who apply for admission to this college will attest. It would be unfortunate for the State to halt where it now is and check the growth of this most useful institution.

Respectfully submitted,

C. C. GARRETT,

President of Board of Directors, Agricultural and Mechanical College of Texas.

THE PRAIRIE VIEW NORMAL SCHOOL.

It is well known that this institution has no suitable academic building. Its success has been marked; the attendance has increased to the full capacity of the buildings, and with the establishment of the industrial department, which is meeting with great favor, it is certain that half of those who apply for admission next year cannot be received. It will not do to turn these people away from the only State institution of learning that they have. It is confidently asked that a suitable appropriation be made by the legislature to erect the building suggested by Colonel Scott, and for the other purposes presented.

The appropriations asked for are as follows:

For academic building.....	\$25,000 00
Repairs.....	3,000 00
Purchase of live stock.....	1,000 00
Library and apparatus.....	1,000 00
Water supply.....	5,000 00
Total.....	<u>\$35,000 00</u>

C. C. GARRETT,

President Board of directors, A. and M. College of Texas.

An act was promptly introduced by Senator Knittel, making an appropriation of \$100,000 for the A. & M. College, and the legislature finally made the following appropriations for the college and the school:

From March 1, 1887 to June 1, 1888, the college had received (appropriations by the Twentieth legislature.)

From general revenue.....	\$25,000 00
From University fund.....	5,000 00

Of these amounts \$11,628 was spent in building and furnishing Pfeuffer Hall and the balance in salaries and sundry other current expenses.

From various sources the college had \$11,966 towards current expenses from June 1, 1888 to March 11, 1889.

In May 1888, the special session of the Twentieth legislature made the following appropriations for improvements:

To erect dormitory and assembly hall.....	\$20,000 00
For furnishing same.....	2,000 00
For repairing college buildings and professors' residence....	9,000 00
Water supply.....	2,000 00
Erecting barn.....	1,000 00
Equipping mechanical department.....	1,500 00
Fencing college land and repairing fences.....	2,500 00
Equipping civil engineering department.....	1,000 00
Equipping veterinary department.....	1,500 00
Equipping drawing department.....	500 00
For work stock and farm implements.....	500 00
Total.....	<u>\$41,500 00</u>

(The Prairie View Colored School which is also under the control of the A. & M. College directory received liberal appropriations.)

The total receipts of the college from students, sales of farm produce, etc., and all sources other than State appropriations and expenditures for maintenance and incidental expenses, such as board books, etc., and pay of all officers and employes except those paid from State appropriations, were as follows, for the period stated: *

Total receipts and balance Jan. 1, 1887 to June 1, 1888.....	\$41,208 97
Total disbursements.....	<u>37,400 53</u>
Balance June 1, 1888.....	\$ 6,808 44

Following is the official report to the Board of Managers of the college property:

* The regents thus friendly allude to the college in their fourth biennial report just issued: "The Agricultural and Mechanical college is mentioned here because by constitution and statutes it is a branch of the University, and therefore entitled to a part of the University's income. It has, however, a separate income from a bonded endowment, a recognized constitutional right of support from the general revenues, and a large annual appropriation from the general government. Its income is received and disbursed by an independent board of directors, who will doubtless report to your Excellency all the needs and requirements of this branch of the University. It may not be out of place to say that, in the opinion of the Regents, the Agricultural and Mechanical College, owing to the peculiar value of the instruction given there, should be generously aided by the legislature, and in estimating the amount of aid to be rendered by the State, it is respectfully suggested that no account should be taken of the appropriation from the Federal government. This should be considered so much clear gain, and the State should gladly supplement it by a liberal appropriation. This appropriation, however, should be made from the general revenues, and not (except in a mere nominal amount, as at present) from the available fund of the University. It would be unwise to cripple the Main University in order to build up one of its branches. The State of Texas, with its abundant resources, is amply able to provide liberally for the University and for all its branches, and at this stage of their development, it would be disastrous to allow either the University or any one of its branches to suffer on account of an insufficient support."

AGRICULTURAL AND MECHANICAL COLLEGE.

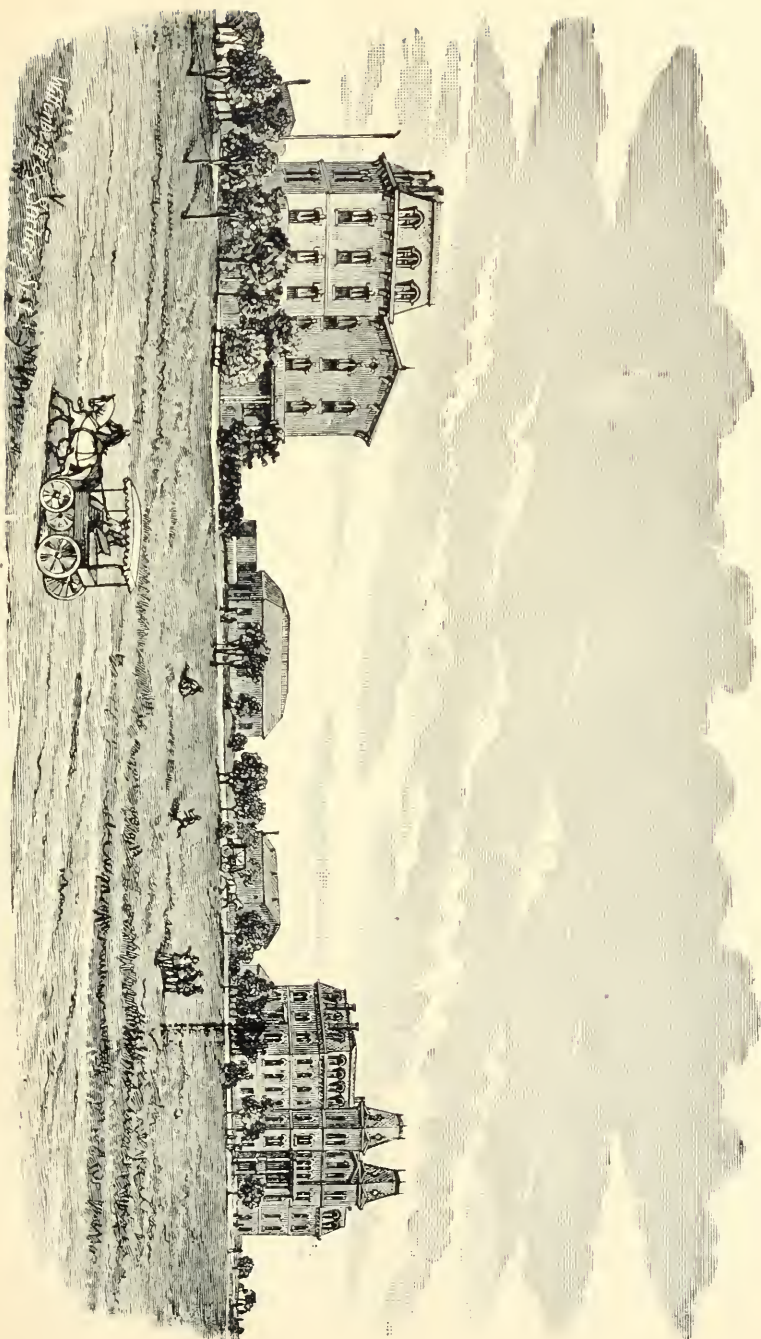


EXHIBIT A.

Inventory of College Property.

Detailed inventories of all College property of the College in the several departments are on file in the College office, as required by the Board of Directors.

<i>Donated to the State by Brazos County:</i>		
Two thousand four hundred and sixteen acres of land.....	\$16,912 00	
One steward's residence.....	1,000 00	
		\$17,912 00
<i>Improvements made prior to 1876, when College was opened:</i>		
One main college building, 151½x60 feet, four stories.....	\$100,000 00	
One steward's hall and dormitory, 91x34 feet, three stories, brick.....	35,000 00	
One residence attached to steward's hall, 40x30 feet, four stories.....		
One stable and barn, 18x30 feet, frame.....	1,500 00	
Nine cisterns, brick, underground.....	1,860 00	
Five professor's residences.....	15,000 00	
Plank fence and cedar posts, enclosing college campus, 161 acres.....	500 00	
		158,500 00
<i>Improvements made from October, 1876, to January 1, 1887:</i>		
Two story frame building, 84x34 feet, wood working shop.....	\$4,000 00	
Two story frame building, farm house.....	1,000 00	
One story frame building, for employes.....	500 00	
Seven underground cisterns, brick.....	1,400 00	
Bath house, sixteen rooms.....	300 00	
Oil house.....	100 00	
Fence, plank and wire, small pasture, forty-six acres.....	100 00	
Telephone lines, college to Bryan, five miles..	250 00	
Brick shop, 80x40 feet, iron working.....	5,000 00	
Store room mess hall, with cellar.....	3,500 00	
Bakery.....	500 00	
Cattle shed.....	500 00	
Large barn.....	2,500 00	
Fences, pasture, east of college, 461 acres.....	1,500 00	
Fences, pasture, east of Houston and Texas Central railway, 850 acres.....	2,000 00	
Two tanks in pastures.....	500 00	
Piggery.....	500 00	
		23,150 00
<i>Improvements made since January 1, 1887:</i>		
Pluffer hall, 112x46 feet, two stories, brick ...	\$11,500 00	
Hospital, one story, frame.....	2,000 00	
Farm house, one story, frame.....	1,300 00	
Creamery building and cistern.....	1,300 00	
Propagating and green house, brick.....	600 00	
Blacksmith shop, brick.....	600 00	
Seven underground cisterns.....	1,500 00	
Two frame servants' houses.....	400 00	
Three silos.....	1,500 00	
Austin hall, two story, 102x46, brick.....	11,000 00	

EXHIBIT A.

Inventory of College Property.

Two professors' cottages, frame.....	3,200 00	
Fences, two pastures, west of Houston and Texas Central railway, 800 acres	1,580 00	
Fences, stock lots.....	500 00	
Addition to barn and stables.....	1,250 00	
Addition to cattle shed	250 00	
Large cattle shed	500 00	
Two employes' cottages.	400 00	
Assembly hall	22,218 64	
One professors' cottage, frame	2,204 38	
Surgeon's kitchen	230 00	
		258,815 02
<i>Equipment:</i>		
Mathematical department.....	315 00	
Language department.....	104 50	
English department.....	87 00	
Library, books, etc.....	5,000 00	
Drawing department	757 77	
Improvement of campus.....	700 00	
		6,964 27
<i>Agricultural Department:</i>		
Cattle.....	5,950 00	
Creamery, one-half interest.....	327 75	
Hogs.....	356 00	
Farm produce.....	1,010 00	
Farm implements.....	933 50	
Miscellaneous	739 90	
		9,317 15
Mechanical department.....		7,235 44
Chemical department.....		4,794 65
Civil engineering and physics.....		3,221 40
Mess hall furniture.....		4,608 33
Officers' dormitory.....		602 57
Book store.....		1,000 00
Veterinary department.....		1,851 93
Horticultural department.....		654 59
Hospital furniture and medicine.....		148 30
Museum		200 00
Office furniture.....		900 00
Assembly hall furniture.....		1,100 00
<i>Experiment Station:</i>		
Buildings.....	4,050 00	
Machinery.....	1,300 00	
Stock	1,980 00	
Office fixtures.....	364 50	
Implements	252 40	
Scales and fixtures.....	110 50	
Fertilizers	28 00	
Drainage.....	620 00	
Creamery, one half interest.....	554 60	
		9,266 00
Total value equipment.....		51,314 76
Total permanent improvements.....		258,815 02
Grand total		310,139 18

[From 12th Annual Catalogue, Session 1887-88.]

Main Building—The main building stands on the highest point of the grounds. It is four stories high made of brick, with mansard roof and towers. The rooms are all of high pitch and well ventilated. On the fourth story, nearly half the space is occupied by the chapel. Two society halls, the armory, the athletic hall and three small rooms are also on this floor. On the third story are the mathematical section and instrument rooms and students' quarters. On the second floor are the library, agricultural section room, chairman's office, chemical laboratory for qualitative work, and several students' rooms. On the first floor are physical and chemical section rooms, chemical balance room and dark room, section rooms of English languages and mechanics, offices of the commandant, business manager and treasurer, and janitor's room. There are broad halls running through each story at right angles to each other, and two sets of stairways, one in the middle, the other at the end of the building. The external appearance of the main building is shown on the right of the frontispiece.

Shops—Back of the main building (seen a little to the left of it in the picture) is the carpenter shop. It is of two stories, fitted with benches and wood-working tools in separate sets for students. Power is supplied in this shop by a twelve horse power vertical engine. The boiler house and blacksmith shop are in the rear of the building. The metal working shop is seen near the middle of the engraving. Its machinery is driven by a twenty horse power engine. The building is of brick. The blacksmith shop is furnished with six forges and necessary tools.

Mess Hall—This is seen on the left of the other buildings. It is three stories high, and is attached to the house which was formerly the president's residence. The first floor is occupied by the hall, steward's office, store rooms, kitchen, &c. The second and third floors are occupied by students' rooms, of which there are twenty in the building.

Pfeuffer Hall—This new building erected in 1887 is for a dormitory, and has capacity to accommodate

seventy-five students. It is named in honor of Hon. George Pfeuffer, a former president of the board of directors.

Austin Hall—This a new dormitory erected in 1888, and accommodates seventy-five students.

Assembly Hall—This building has been completed and furnished with neat opera chairs. It is a two story brick stuccoed with Portland cement; has main floor and gallery. It is an ornament to the grounds.

Hospital—A large and comfortable building has been erected as a hospital and surgeon's residence. The surgeon will give his attention to all students without charge other than the regular medical fee of five dollars paid by each student upon entrance.

Creamery—There has recently been erected a building for the creamery. It is supplied with a complete outfit of the latest improved apparatus for making butter. The machinery is driven by a six horse power engine. Practice in the creamery forms a part of the agricultural course.

Farm Buildings—These are situated several hundred yards in the rear of the main building. They consist of two large barns, a milking shed and a piggery. One of the barns is new, and is fitted with stalls for the thorough-bred cattle, and storage rooms for implements and food. These buildings are supplied with water from a large tank, which is kept filled by a wind mill. There have recently been erected three large silos in connection with the agricultural experiment station, and students will have the advantage of practical instruction in the connection of silos and the best method of preparing ensilage.

Permanent Fund—In November, 1876, the legislature formally accepted from congress the gift of one hundred and eighty thousand acres of public land for the endowment of an agricultural and mechanical college. This land was sold for \$174,000, which sum was invested in seven per cent State bonds. As under the act of congress neither principal nor interest of this money could be used for other purposes than the payment of officers' salaries, at the time of the opening of the college there was an addition to the fund from ac-

accumulated interest, of \$35,000, and both sums being invested, the latter in six per cent bonds of the State, furnish an annual income of \$14,280.

Land—The county of Brazos donated to the college, two thousand four hundred and sixteen acres of land lying on each side of the Houston and Texas Central railroad, five miles from Bryan and ninety-five miles from Houston.

Grounds, Farm and Stock—The farm, garden, orchard, barnyards and campus are included in the inclosures to the east of the station. The farm comprises about two hundred acres. This is devoted solely to experimental culture and the production of forage for stock. The orchard of eighty acres contains a large variety of young fruit trees more or less adapted to this climate. The garden affords experimental work to students and furnishes an abundance of vegetables to the mess hall. A young vineyard has been started; many of the vines are already bearing well. Back of these are the piggery, calf lots, barns and pastures of about four hundred acres. The college now owns registered cattle, Dutch Frisians, Galloeways and Jerseys, besides a number of high-grade shorthorns and common cows for the present milk supply. The swine include Essex and Berkshires. During the next session a creamery will be perfected for giving instruction in butter making. On the west side of the railroad a pasture of eight hundred acres has been enclosed.

Apparatus—All departments of instruction are well supplied with implements and instruments of the latest and best forms. The agricultural department is equipped with hand tools, machinery and mules for farm work. The machine shops are well furnished with wood and metal working machinery and tools. The chemical and physical laboratories have recently received important accessions of apparatus. The department of civil engineering is supplied with a full set of surveying and engineering instruments.

Military Organization and Discipline—For the purpose of maintaining good order and discipline, as well as for the proper execution of the law of congress requiring military instruction of the students, they are or-

ganized into a battalion of two or more companies. The battalion is under the immediate command of the commandant. The officers, commissioned and non-commissioned, are students taken for the most part from the first and second classes. They are appointed by the chairman of the faculty upon the recommendation of the commandant, and their appointment and rank is made to depend upon the active and soldierly performance of their duties, their sense of duty and responsibility, and their general good conduct and class standing. These officers, not merely at drill, but at all times when on duty, assist in keeping good order in and around the buildings. In their various positions of graduated responsibility they not only aid most efficiently in maintaining discipline, but continually practice and are trained in the exercises of the highest qualities involved in obedience and command.

BRANCH FOR COLORED STUDENTS.

The legislation intended to justify the use of University funds for the Prairie View Normal School is reviewed by Governor Roberts in his message of April 6, 1882, to the Seventeenth Legislature and is amusing. According to the governor's statement it is evident that the school was not the colored branch of the University contemplated by the constitution (Art, 7, Sec. 14), for that was to be located by a vote of the people, and no such location had been made, or was made, till November, 1882, when it was fixed at Austin. But the A. and M. College in Brazos county was a branch of the University; so the colored school was made a "normal and an A. and M. College for training colored teachers" and "teaching colored youths" in Waller county, and as such, was retained under the control of the A. and M. College in Brazos county, and with this name and its uses multiplied was thus ready set for benisons from any quarter—from free school, normal, college or university appropriations. The legislature, however, made the ridiculous mistake, as to designation of a fund, by providing that the comptroller set apart a specified amount for it annually "out of the interest accruing from the University fund appropriated for the

support of the free public schools." There being no such fund of the University, Comptroller Darden liberally construed it to mean "a simple appropriation out of the University's available fund" as being the intent of the legislature for his government; and two legislatures (Sixteenth and Seventeenth) persisting in making appropriations for it out of that fund, it came to be regarded as an addition to the A. and M. College at Bryan, entitled, branch of a branch college as it was, to some share of appropriations from the University fund.

Comptroller Brown who succeeded Mr. Darden persistently refused to admit the accounts of the school under such appropriations, on the ground that it was unconstitutional to pay them out of the University fund; and finally the school passed out of consideration, even under the strained relations assumed for it, as having any claim directly upon the University; and is now supported from the same source from which it was originally started, which was by appropriation from the general revenue, under an act of Aug. 14, 1876. Under that act, which provided for "a college for the education of colored youths," a large tract of land with houses and other improvements called "Alta Vista," near Hempstead, in Waller county, was purchased by the State, an appropriation of \$20,000 having been made therefor, and the school having been organized under the direction of the managers of the A. and M. College at Bryan. However, having soon failed to be kept up for want of students, it was changed into a normal school for colored people under the name of the "Prairie View Normal School" in which the students are supported by the State (Act. of 1879). It remains a branch of the A. and M. College under direction of the managers of the Bryan institution, and is now well patronized, and is doing good work for the colored people.

THE ACADEMIC DEPARTMENT.

This department was provided for by virtue of the action of the University regents at their first meeting Nov. 14, 1881, when they decided to establish as soon

as practicable an "Academic Department," a "Department of Law" and a "Department of Medicine." The academic department which will be noticed more fully as the history of the University progresses was to have one professor respectively for the following branches.

1. English Language, English Literature and History.

2. Chemistry.

3. Natural Philosophy, Astronomy, Mechanics and Meteorology.

4. Natural History and Botany.

5. Mathematics and Practical Engineering.

6. School of Mines, Geology and Mineralogy

7. Moral Philosophy and Ethics, and Political Economy.

8. Ancient Languages—Greek and Latin.

9. Modern Languages—Spanish, French and German.

The only academic chairs filled by the board at that meeting, however, were:

1. English Language, Literature and History—Leslie Waggener, L.L. D.

2. Physics and Chemistry—J. W. Mallet, F. R. S., L.L. D.

3. Pure and Applied Mathematics—W. Leroy Broun, L.L. D.

4. The Latin and Greek Languages and Literature—Milton W. Humphreys, L.L. D., Ph. D.

5. Modern Languages—H. Tallichet, A. M.

Two professors for the law department, Gov. O. M. Roberts and Judge R. S. Gould, were also appointed.*

In connection with these selections, the regents stated in their report to Governor Roberts:

"We are aware the number of professors is utterly inadequate even for a respectable collegiate institution, much less for a University of the first class as required in the constitution, as demanded by the people of Texas, and as competent to afford thorough, comprehen-

* The first addition to this faculty was by the election in 1833, of Prof. R. L. Dabney, A. M. D.D., L.L. D., of Virginia to the chair of Mental and Moral Philosophy and Political Science.

sive instruction to the youth of Texas, and to furnish the scientific knowledge which the undeveloped resources of our great State, immediately and urgently stand in need of. General equipment and material for instruction are as indispensable as professors; they are as indispensable as tools and material are to any of the mechanic arts of common life. In view of the wants just specified, the regents respectfully state that all the resources of the University already alluded to, if utilized to their utmost, are inadequate to the indispensable wants of the University for imparting instruction. This is not all. Without the equipment and the materials, and other appliances and a separate building for a chemical laboratory, as adverted to above, the University would in vain expect or hope to present a faculty which would meet just public expectation. The professors already chosen are gentlemen eminent in qualifications and well established reputations. The names of other gentlemen are before the board, similarly distinguished, and ready to fill the other professorships still vacant. But no gentlemen worthy to teach in our University, can possibly be retained or hereafter secured unless there be means furnished him to do such work as his reputation and the requirements of the University imperatively demand."

The report adds: "It would be a violation of delicacy to name gentlemen who were candidates for professorships, but not chosen, and also gentlemen who are candidates for chairs hereafter to be supplied, but the board of regents deem it proper to state in general terms to your Excellency, that they have had before them for choice, respectively, a good number of the most distinguished scholars, and scientists in America, many of them of world wide reputation." Among the prominent gentlemen who were not applicants but were solicited to accept chairs were Judge Cooley of Michigan, Professor LeComte of California, and Professor W. T. Harris, now United States Commissioner of Education, each at a salary of \$4,000.

Dr. J. W. Mallet afterwards first chairman of the academic faculty of the University of Texas, who at the time of his appointment as professor, was a member of

the faculty of the University of Virginia, was solicited by the regents to come to Austin, and did so to consult with them on various subjects in advance of the opening of the University. The results of his observations and the views expressed to the regents by that distinguished educator are of such interest in connection with its initiatory proceedings, that it is best to give them in his own language:

AUSTIN TEXAS, Jan. 10, 1883.

COL. ASHBEL SMITH,

President Board of Regents, University of Texas.

DEAR SIR—Having come to Austin in response to the invitation to become connected with the University of Texas, with which I have been honored by the Board of Regents, with the object of learning more definitely the conditions under which the institution is to be inaugurated, I have to thank you and the other gentlemen of the board, for the kindness with which you have given me the amplest facilities for obtaining the desired information.

Permit me to say that in the choice of a seat for the proposed University, in the general character of the provisions made for its support in future years, in the breadth and soundness of the plans which your board has originated and by which its action so far has been guided and in the personal and professional character of all the gentlemen who so far constitute the administration and teaching staff of the important institution to be soon put in operation, you have secured the chief conditions for the attainment of such real success as will be at once recognized by all intelligent friends of education throughout the country.

Allow me, however, to say also, frankly, that one point seems to remain in unsatisfactory form. It is impossible to overrate the importance of the University of Texas making a good beginning of actual teaching work. If at the outset the impression be made upon its first students and the public that the institution is not prepared to do thorough work within such scope as it professes to occupy; that its efficiency is among the possibilities of the future, but not among the realities of the present, long years may, and probably will, pass

before this evil reputation can be shaken off, and the confidence of the people of Texas be secured. In order to actually do good work from the first, very considerable expenditure will be needed for the material equipment of the several departments of instruction, the provision of a working laboratory, apparatus, specimens, diagrams, books, and lecture appliances, as well as for many general expenses incident to the commencement of activity in such an institution as is contemplated. A wise provision of law prevents, as I understand, the use for such purposes of any of the permanent fund of the University. Only income can be used. The design of the law givers of Texas, that the proposed University shall be free to all the people of Texas, precludes the possibility of obtaining the necessary means from tuition fees. Such means must come from the State herself for the benefit of her children, and the income from the present will not suffice. If your board can obtain from the legislature such additional endowment as will provide, not necessarily for all the work the University may be able to do in the future, but for the really essential equipment for the commencement of work in an institution of learning of high grade, a university in fact, and not merely in, name, I believe that your success is thoroughly ensured so far as human preparation can make it so. If, on the contrary, a false or a feeble start be made, grave doubts must be felt as to the attainment of any such success as will satisfy the people of Texas, at any rate within such time as the present generation is concerned with.

I have the honor to be, sir,

Very respectfully,

Your obedient servant,

J. W. MALLEY.

The members of the new faculty of the academic department, or most of them, met soon after their appointment in Nashville, Tenn., to consult with Colonel Ashbel Smith, president of the board of regents, who went there for the purpose, as to the best methods of putting the department into operation and the curriculum of studies to be adopted. Dr. Humphreys, of the

new faculty, lived in Nashville, where he was a professor in Vanderbilt University, and one object of the meeting there was to afford Colonel Smith an insight into the methods, appliances and advantages of that recently established but finely endowed and popular institution, as some index to the requirements of the new University in Texas.

THE LAW DEPARTMENT.

"This department has been an integral part of the University from the first, having been organized at the same time as the academic department at Austin. It has been a great help to the University. It has attracted, as a general thing, a more mature class of students, and its graduates have uniformly been instrumental in turning towards the University the steps of students who desired collegiate learning. This department has not only been advantageous to the University, but it has, it is believed, been of signal service to the State. It has kept in Texas a large number of young men who would, in all probability, have gone to other States for their professional training. They have been educated by professors familiar with Texas jurisprudence, and, when graduated, they have naturally carried away with them a respect for the laws of the State, and a pride in its history and in the achievements of its people that would be desirable to instil into the hearts of all its citizens.—*Regents' Report*.

THE MEDICAL DEPARTMENT.

The act of February 11, 1858, establishing the University provided among other things, for "instruction in surgery and medicine," and act of March 30, 1881, required that the medical department be located separate from the University proper, if the vote of the people so determined." The vote resulted in its location at Galveston. The expense, however, of putting the main University into operation at Austin and the large grants from the University fund which the legislature continued to bestow upon the A. & M. College at Bryan, seemed to preclude the possibility of an early organization of the "Medical Branch of the Uni-

versity," as the legislature termed it, till the recent offer of grounds and buildings for its uses by the city and citizens of Galveston, backed by the earnest efforts of Hon. Walter Gresham of that city, as chairman of the House finance committee, stirred the Twentieth Legislature to action, resulting in the adoption of the following provisions in the general appropriation bill, passed at the special session, (General Appropriation Act May 17, 1888):

"As a loan to the available fund of the University of Texas to be placed to the credit of said fund out of the indemnity fund now in the State Treasury, and to be paid to the State out of the revenues of the University on or before January 1, 1910, without interest, \$125,000. Of which the sum of \$50,000 is hereby appropriated and set apart to be used in the construction of buildings for the Medical Branch of the University of Texas, at the city of Galveston; Provided, That the said city of Galveston shall donate to the University of Texas block 668, in said city, to be used for the Medical Branch of said institution. And provided further, That the executors of the estate of John Seely, deceased, shall agree to construct said block, at a cost not less than \$50,000, a medical hospital, which, when completed, is to be donated to the Medical Branch of the University of Texas, and to be under the control of the Board of Regents of said University; Provided further, That this loan shall be in full payment and satisfaction of all claims of the University of Texas against the State of Texas for moneys drawn from the University fund by said State.

Even this concession as a loan was barely gained by combinations forcing an all-around compromise.

Commenting on this action of the Twentieth Legislature in connection with the University claims, amounting with interest to \$431,188.87, against the State, the regents in their third biennial report to the governor, December, 1888, say:

"Of this amount, it was calculated that the items of interest and the amount misappropriated by the legislature to the Prairie View School would be allowed. These amounts (\$302,633 55) would have enabled the regents to finish and equip the main building at Austin and finish and equip the building for the medical school at Galveston."

"It will be noticed that it is distinctly admitted that moneys were drawn from the University fund by the State, and as the correctness of the statements in regard to the amounts of the respective claims has never been questioned, the supposition is reasonable that these amounts were found, upon examination, to be as given

by the Regents to your Excellency. It remains, therefore, that the legislature has paid a debt of \$431,188.85 by a loan of \$125,000.00. Moreover, the provision that "the loan shall be in full payment and satisfaction of all claims," will, perhaps, be construed so as to cut off the University from asking an equivalent for the Navigation lands, for the lands in conflict in Grayson and McLennan counties, and for the money drawn from the University fund to pay clerks in the departments. This being the case, the Regents are shut off from all sources from which they can secure an immediately available fund, except another loan. They, therefore, respectfully ask that a loan of \$200,000 be placed to the credit of the available fund of the University of Texas on the same terms as the loan of act approved May 17, 1888; of which \$125,000 is to be used in finishing and equipping the main University building at Austin, and \$75,000 in finishing and equipping the Medical School building at Galveston."

One reason for hoping that the State would make this loan, say of \$200,000, was based on the fact that the State had received nearly \$1,000,000 indemnity money from the federal government for frontier defense.

Following the action of the Twentieth Legislature, all the last legislature would do for the University was the adoption of the following, in the general appropriation bill, approved April 8, 1889:

"For the support and maintenance of the State University, all of the available fund to be under the control of the Board of Regents, less the appropriation herein made for the Agricultural and Mechanical College, for purchase of grounds in the city of Galveston for the location of the Medical Branch of the University of Texas, the sum of \$25,000 to be paid out of general revenue, or so much thereof as may be necessary; Provided, The city of Galveston, or its inhabitants, shall donate the sum of \$25,000 to be used in addition to the \$50,000 heretofore appropriated by the State for the construction of buildings for said Medical Branch at the city of Galveston.

*For support of the University out of the general revenue; Provided, The University spend an equal amount out of the available University fund for completing and furnishing the University building at Austin—\$25,000.

The regents are arranging for the early organization of the medical department as soon as the buildings can

be completed, and on as substantial basis as the outfit provided will admit. The city of Galveston has already built a large hospital known as "Sealy Hospital," and constructed in accordance with arrangements with the executor of the Sealy estate, at a cost of \$60 000, which has been deeded to the State and placed in charge of the regents for the use and benefit of the medical school.

THE MEDICAL DEPARTMENT BUILDINGS.

The amalgamation of the Sealy Hospital, with the medical department of the State University, results indirectly from a provision in the will of Mr. John Sealy, who bequeathed the sum of \$25,000 for charitable purposes, to be applied in the discretion of his executors, followed by further action of Mr. George Sealy, as executor, and Mrs. John Sealy, as executrix and principal legatee, in extending the benefits of the provision by further grants, altogether aggregating about \$70,000 from the estate.

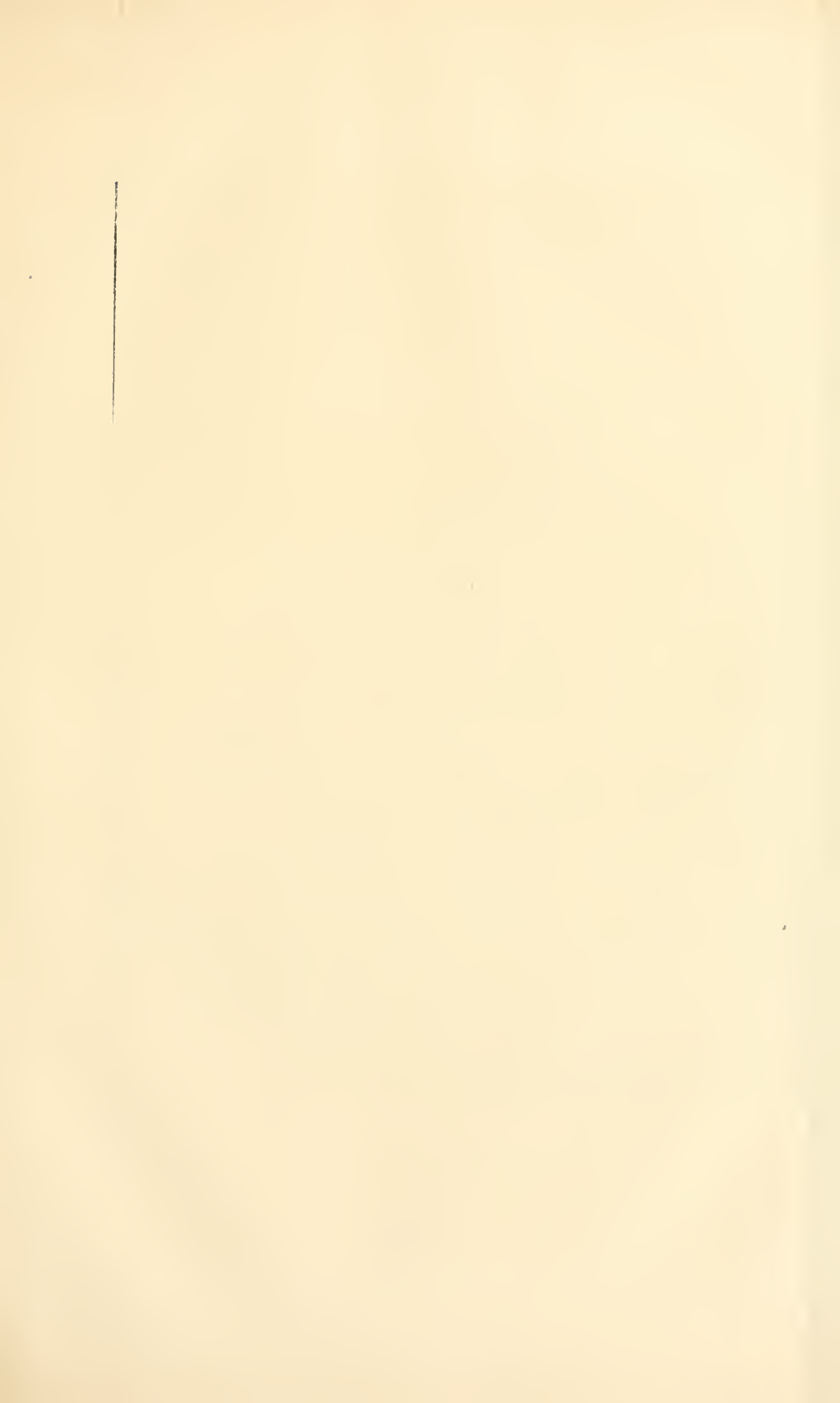
The donation from the Sealy estate was originally to the city of Galveston, on condition that the city would donate the south half of the city hospital block for a site, and agree to conduct a hospital thereon. The city, after formally accepting the donation, and with the assent of the Sealy executors, offered the State the Sealy Hospital and the old hospital buildings thereon, upon condition that the legislature would agree to appropriate the sum of \$50 000 towards the erection of the medical department building of the University in Galveston, which question had already been determined in favor of Galveston by a vote of the whole State. The legislature accepted this proposal and made an appropriation as asked. At the next meeting of the legislature Galveston offered to donate \$25,000, upon condition that the State would appropriate a like sum for the college. This proposal was accepted and the State purchased the block of ground, the city's contribution being applied towards completing the medical college building. The furnishing and equipping of the hospital was done by the city of Galveston, and contributions were made by the citizens of some \$6,000 to

\$7,000 for the equipment of The Texas Medical College and Hospital, the medical school now being carried on in Galveston. This equipment is to be turned over to the medical department of the State University as soon as that department is put into operation.

As the facts actually transpired, the Sealy executors donated the hospital to the city, as the inscription on the building states:—"The gift of John Sealy to the city of Galveston, for the benefit of humanity and science." The city deeded it to the State, under terms securing perpetually in the regents of the University, a voice in the management of the institution, so as to better adapt it to the purposes of a medical college hospital. The city now holds possession of the hospital under a twenty-five years lease from the University regents, the conditions of the lease being such as to enable the regents as trustees for the State, on behalf of the University, of the hospital property, to exert a wholesome control in the general management of the hospital, and among other things, securing that the faculty of the medical college shall constitute forever the medical and surgical staff of The John Sealy Hospital with all facilities for clinical instruction.

Pending the establishment of the medical department of the University by completion of the college building, and awaiting appropriations necessary to equip it and put the college into operation, the hospital premises are used by The Texas Medical College, which is already in operation, as stated, and is in charge of the following faculty: Dr. B. E. Hadra, Dr. I. A. West, Dr. J. F. Y. Paine, Dr. H. T. Cooke, Dr. Ed. Randall, Dr. J. H. Wysong, Dr. George Dock, Dr. C. W. Trueheart, Dr. George H. Lee, Dr. George P. Hall, Dr. J. W. Pettus and Dr. Charles C. Barrell.

Following the action of the legislature a meeting of the University regents was held in Galveston June 20, 1889, in the Ball High School building, when all the members being present and pending the question of the location of the medical college (branch of the University), a resolution offered by Regent Thompson was adopted, and a committee was appointed to effect a lease of the Sealy Hospital to the



city council of Galveston for a term of years, reserving all clinical, medical, or other rights which are necessary or proper for the medical department of the University." The committee was instructed to investigate and record the State's title, and perfect the same if defective, before making the lease. Dr. Trueheart, of Galveston, was present at the meeting of the board to represent the interests of the city in the matter. The board visited various sites proposed for the location of the medical branch, and invited Messrs. George Sealy and Walter Gresham to unite with them in selecting for purchase the best site that could be procured for the college. Resolution by Regent Shepherd was adopted, "that \$25,000, or as much thereof as necessary, according to the appropriation of the Twenty-first Legislature, be appropriated for the purchase of land within the limits of the city of Galveston for the location of the Medical Department of the University of Texas; provided, that before said sum, or any part thereof, shall be expended, the city of Galveston shall have deposited with the treasurer of the State of Texas the sum of \$25,000 for the University for the purpose provided in the act of the legislature." The building committee was authorized to make and perfect the purchase of the land, and Messrs. Sealy and Gresham were invited to act with the committee. Original plans of N. J. Clayton, which had been enlarged to correspond with the increased appropriation, were accepted, and the committee was authorized to advertise for bids for constructing the building. They finally reported the selection and purchase of a suitable block of land for the college, near the John Sealy Hospital, at \$22,889.46 and that the proper deeds were received. Under the provisions of the grant of money by the legislature to build the college, that the city of Galveston should donate a like amount with the State, the regents resolved, that before any other steps be taken by them looking to the erection of the college building, the city of Galveston should deposit in bank in that city, the sum of \$25,000, subject to the control of the regents.

These provisions were finally complied with, and the college building is now nearing completion. The leg-

islature will be applied to for an appropriation to furnish it, ready for putting the medical department of the University into operation next session. The hospital has been leased by the regents to the city for twenty-five years on the following terms: An annual rent of one dollar, and on condition that the city of Galveston will use the property exclusively for hospital purposes, and that the hospital shall be known as the John Sealy Hospital. The city is to provide all officers and employes, and furnish and equip the buildings used for hospital purposes with all furniture, stores, medicines and appliances necessary to make the same in appointment and equipment a first class hospital, as may be determined by the city council for the cure of sick, wounded and disabled persons, and will maintain the same as such during the term of twenty-five years free of cost and expense to the State of Texas; provided, however, this shall not apply to the visiting medical or surgical staff of the hospital who shall hereafter be provided and designated by the board of regents of the University of the State, and who shall serve gratuitously. The city is to keep the property insured at two-thirds of its estimated insurable value, the policies to be payable to the University regents for the State, and the insurance money to be used for repair, restoration or rebuilding of structures equal in all respects to the original. The city is to keep the buildings in good repair, ordinary wear and losses excepted.

The State, through the regents, reserves the right, at any and all times, to enter upon the premises, and to alter or improve them at the State's expense, the better to make the hospital subserve the purposes of a medical college hospital to the medical department of the State University; provided that in so doing the use of the premises by the city for the purposes declared in the lease shall not be materially interrupted or impaired.

The sixth clause of the lease reads: "That the State, through the Board of Regents of the University, reserves the right of use, by the faculty of the Medical Department, of the operating amphitheatre, the wards and the grounds of said hospital property, for the pur-

poses of and so far as may be necessary to the clinical instruction of students attending the Medical College of the State, located at Galveston; also the right for such purposes to the special conduct of the treatment of all charity patients of said hospital. And the said city hereby agrees to furnish all the facilities that the said hospital may afford for the legitimate, clinical and other teaching of the students attending the said Medical Department, and also to place at the disposal of the faculty of the Medical Department, as far as may be required by said faculty, for dissecting, pathological and other purposes of instruction, the dead bodies of all charity patients who may die in said hospital and of which the said city may have the right of disposition."

The seventh section reads: "That while the said hospital must of necessity, under the provisions of the present charter, be under the control of the Board of Health of the city, yet it is understood and agreed that the city council will immediately on the assembling of the next Legislature of the State of Texas in regular session, apply for such amendment or amendments to its present charter as will place the management of the John Sealy Hospital under the exclusive control of a special board of managers, to be known as the John Sealy Hospital Board, to be chosen or appointed every two years and within thirty days after the installation of each new board of council of the city of Galveston, and to consist of five members as follows: Two from the city council of the city of Galveston, one of whom shall be the chairman of the committee on hospital and health, and the other the chairman of the committee on finance and revenue; two to be named by the board of regents of the University of the State, and these four to select a fifth; provided, however, that all the members of said John Sealy Hospital Board shall be resident citizens and tax payers of the city of Galveston. And the said John Sealy Hospital, when so organized, shall have the exclusive right to appoint the house surgeon, steward, matron, nurses and such other subordinate officers and employes as may be required for carrying on the said hospital; to designate

their duties, fix or change their salaries or compensation, and to suspend or discharge such officers and employes at pleasure; provided, always, however, that the said board shall in no event and in no one year exceed in their expenditures the annual allowance set apart by the city council for defraying the expenses of said hospital, the said council reserving the exclusive right at all times to regulate and determine the amount of money to be expended in carrying on or conducting the said hospital. The said John Sealy Hospital shall also have the exclusive right to make rules and regulations for the management and conduct of the hospital in all respects. In short, to have the exclusive management and control of the internal government thereof."

The eighth section reads: "It is understood and agreed, that should the city council fail or neglect to apply to the legislature of the State, at its next regular session, for the passage of such amendment or amendments to the city charter as are herein contemplated, and as have already been formally pledged by said council, by resolution adopted September 7, 1889, or, after so applying and being unsuccessful in the effort, shall fail or neglect to apply, at each subsequent regular session of the legislature held during the period stipulated in said lease, for such amendment or amendments to the said charter, until successful in procuring the same, either as herein contemplated or in such modified or changed form as the legislature may, itself, see proper to make; then and upon such neglect or failure to apply for said amendment or amendments, the said lease shall, at the option of the board of regents of the University, acting for the State, terminate, and said regents, acting for the State, shall have the right, at any time after the adjournment of the legislature to which said council so failed or neglected to apply, to enter upon and take possession of the said John Sealy Hospital, grounds and premises, and eject therefrom any and all persons whomsoever."

The ninth section regulates the admission of charitable and pay patients. The tenth section provides that the financial affairs of the hospital shall be under

the exclusive control of the city of Galveston. Other sections relate in detail to the management of the hospital, and the last section, (section 17), gives the city of Galveston the right to renew the lease upon like terms and conditions, upon giving ninety days notice next before the expiration of the lease, which is signed, Thos. D. Wooten, president of the board of regents of the University of Texas, and A. P. Woolbridge, secretary of the board, and by R. L. Fulton, mayor of the city of Galveston, and Dan'l. J. Buckley, city clerk.

The hospital occupies the same block with the college, standing about sixty feet from the college building, and is well equipped. The college itself is a model of beauty and usefulness in its design, and will be provided with every desirable convenience, and the most complete equipments that the means which the legislature may grant, will afford. Both buildings have the charming advantage of location directly on the beach of the Gulf of Mexico.

The following description of the college is taken from a copy of the *Galveston News*, furnished to the author by Mr. Dudley D. Bryan, city editor of that paper:

"The building is being constructed by the State and will be used in connection with the John Sealy Hospital. It has a frontage on the strand, between Ninth and Tenth streets, of two hundred feet. There is a breadth of seventy feet for the main building and circular wings, with a central projection and portico extending twenty feet on the front, and a staircase and boiler room projection in the rear, on the bay front, extending forty feet, making a total width of one hundred and thirty feet. The length of the structure is ninety-two feet, the height of the central pavilion one hundred and two feet, the height of the boiler and general toiling rooms is 48 feet, and the smokestack connection with the same looms up to one hundred and five feet. The building is in the modern plan of romanesque design, the same which has been adopted by the most eminent American architects in their best designs for collegiate and public buildings. The

leading features of the exterior are the unique and massive round arches, deep projecting pilasters and circular buttresses terminating the principal angles. There is also an arcade of small windows, which form an effective finish for the circular wings and main front. The building is elevated upon a basement twelve feet high which is made up of colossal piers and arched constructions, and the foundations consist of heavy isolated pieces. This is a plan adopted by Mr. Clayton in construction of his largest buildings here, and it is a plan that has been approved by leading architects in Chicago and other localities where the surface foundation is similar to that of Galveston. The basement will be used for a boiler room, janitor room, and will also contain the cauldron room and the tank room. These are connected by a dumb waiter to the dissecting room on the third floor. An elevator will connect the basement with the other floors. The main interior staircase also leads down to the basement, which will be tiled in the principal part and paved in the other. Under the main entrance porch will be a *porte cochere* for carriages and other vehicles.

"A spacious flight of steps leading to an ornate portico gives direct entrance into the main portion of the building or first floor. Opposite the principal entrance and through a broad corridor will extend the grand staircase, giving access to the other floors. Across this hallway is another large corridor, running east and west through the building, which opens into a lecture room for chemistry and practice. This is in the circular wing in the west flank of the building, and is connected with spacious compartments, which will be used as a chemical laboratory. The divisions on this floor consist of offices for the dean, secretary and professors. The second floor will contain the two principal lecture rooms; one in the west flank will be devoted to physiology and materia medica, and the other in the east flank to anatomy. They are built in amphitheater form and have a dimension of fifty-six feet in width and forty eight feet in length, the projections from the main building being thirty-six feet in height. The estimated seating capacity for each is

three hundred. The platforms and seats will radiate parallel with the external walls and will extend from the second to the third floor, a height of sixteen feet. Light and ventilation will be furnished by an arcade of windows above the seats. The ceilings of the lecture rooms are curved with a view to securing proper acoustic properties. The amphitheater form of these lecture rooms produces an effect upon the external design of the building, which is both striking and pleasing as well as being novel and attractive. The vacant spaces underneath the seats will be used by the subjects in physiology and for a museum of anatomy. This story will also contain the private rooms of the professors of chemistry, physiology, anatomy, surgery, obstetrics and pathology, as well as the experimental rooms in photography, microscopy and bacteriology. The third, or top floor, contains the general dissecting room, which is thirty-six by eighty-three feet and is twenty-four feet high. It has a curved ceiling, and its longest front faces south, giving abundant light. There are twenty-six dissecting tables in this apartment, and the dean's lecture room and assistants' rooms adjoin.

"At the east and the west end of the dissecting room are lavatories and wardrobes for the especial use of the professors and students. The upper portion of the amphitheater of the lecture room can be entered on this floor, as well as from the story below. The central facade of the main building is surmounted by an improved pavilion roof, which adds greatly to its architectural beauty. Cedar bayou pressed brick have been used in the construction, large quantities having been laid in a zig-zag course, which produces an artistic effect. The roof will be slated in stones of blue and green, and artificial red sand stone has been used for columns, sill courses, hoods of arches and other decorations. Polished columns of red Texas granite adorn the entrance, and encaustic tiles will be placed on the front porticoes. The interior will be finished off in natural woods, principal among which the Texas pine and cypress will predominate."

Messrs. Clayton & Co., (N. J. Clayton and P. S.

Rabitt), of Galveston, are the architects, and Mr. August Baumbach, of Houston, is the contractor for the Medical College. Mr. J. C. Cameron is employed to assist in superintending the work. The structure is rapidly nearing completion under the improved plans designed by Mr. Clayton, after visiting the medical colleges in New York, Philadelphia and other places—mainly upon the plans of the College of Philadelphia. Mr. Clayton found that very few medical colleges had the advantage of having their hospitals on the same grounds as the college buildings—an advantage upon which the professors of such colleges laid great stress. He has prepared the following interesting report of his visit, and recommendations addressed to the University Regents:

GALVESTON, TEXAS, December 9, 1890.

To the Honorable Board of Regents of the University of the State of Texas, at Austin, Texas, through Dr. T. C. Thompson, chairman of the Building Committee, college building for the Medical Branch, at Galveston, Texas:

GENTLEMEN—I herewith respectfully submit my report upon my examination into those special features of the leading medical schools, colleges and hospitals of the Northern and Eastern States, in accordance with my instructions and under the authority of your honorable board, namely, the general design, arrangement and construction of the special development in the scientific departments and their subdivisions, the laboratory, dissecting room, with the attending offices, furnishings and administrative requisites, which, together with the numerous details intimately connected therewith, were a work of time, labor, and expense which doubled the amount of your appropriation for this purpose, but for which I make no claim.

The colleges and hospitals visited were as follows: In Baltimore, the medical school of the Johns Hopkins University, and the renowned hospital of that name in that city. In Philadelphia, the medical school of the University of Pennsylvania, the Jefferson Medical College, and the Hannemann Hospital and Medical College. In New York, the College of Physicians and

Surgeons. In Boston, the hospital of the city of Boston, and the medical school of the Harvard College, and the Massachusetts General Hospital.

As the result of my examination, the University of Pennsylvania has, in my opinion, the most extensive, complete and comprehensive chemical laboratories in arrangements, details, and scientific construction of the various institutions visited by me, excelling particularly in space, ventilation, lighting, water supply, and the many minor details essential to such laboratories. The museum is also excellent in constructive arrangement, classification, and also in the extent of its acquisitions, though in this respect that of the College of Physicians and Surgeons of New York and of the Johns Hopkins University of Baltimore possess similar merits. In the arrangement of its microscopic department, lighting, etc., it is equalled only by the new microscopic department of the medical school of the Harvard University now being completed. Both are, however, essentially different in the means of lighting adopted and applied in the construction of these buildings.

In the arrangement, ventilation, method of lighting and in the many important details essential to the scientific construction of a dissecting room, with its attendant offices and the various requirements of same in storage, refrigerating apparatus, elevators, electrical and other appliances, and the outgrowth of these necessities in water-proof sanitary floors, wall surfaces, skylights, and especially designed and prepared plumbing fixtures, the College of Physicians and Surgeons undoubtedly stands unequaled.

In its department of microscopic research, bacteriology, etc., in constructive arrangement the Johns Hopkins University is the peer of the University of Pennsylvania. In its phonographic department alone is the evident superiority in construction of the Pennsylvania Medical School made known by its arrangement of dark rooms, etc.

The general superiority in the constructive arrangements and appliances of one school over the other exists only in isolated details, the outgrowth of special requirements, evidently developed by some scholarly

specialist wholly devoted to the advancement of his profession and enamored with its simplest and most laborious details in ventilation, lighting, sanitary appliances, hygiene, gases, water supply, etc.

As the result of careful study and examination of the different buildings named in the most essential details, I would suggest that a skylight be introduced in the ceilings of each of the amphitheatres, the anatomical lecture room, and the amphitheater of physiology and materia medica, over the tables of the demonstrators of anatomy or chemistry. Also the introduction of the necessary closets for the chemical apparatus and chemicals, anatomical specimens as prepared by the prosecutors for the lecturers, and the numerous instruments, appliances, etc., requisite. Also that provision be made for additional ventilating tubes, ducts, and apparatus for these rooms. Also for the introduction of water-pipes for two distinct services to supply the different kinds of water constituting our supply—rain water and that of artesian wells. Also for the introduction of a distinct electric and gas lighting service for these principal lecture rooms.

I would advocate the use of steam heating for this building on account of its value in combination with its application to the operation of elevators, ventilating fans, and the refrigerating apparatus necessary in this climate for the preservation of anatomical materials, and the operation of a dynamo for lighting and the electrical power requisite to-day for general use, and also in its application to experimental purposes and physical research.

An ample supply of gas is requisite for the lighting of the entire building, and for heating in the department of physics and the physiological and chemical laboratories. Also a plentiful duplicate supply of water for the entire building, particularly the dissecting room, is requisite.

I have not seen a system of sanitary appliances in plumbing fixtures and arrangements superior from a hygienic point of view to that intended for this building; a slight modification only is necessary. But a system of sewerage must be provided for carrying off

the excreta to meet the peculiar requirements of this locality, which, from my experience and examination of the facilities existing in the other places, is altogether unique, involving the use of a storage cesspool or vault, thoroughly ventilated by artificial means, with a water supply and a long line of sewerage pipe to lead to the channel across the flats, to be controlled and emptied periodically at the outgoing of the tide.

It will also be necessary to construct the top of the floors in the dissecting rooms to meet the requirements of the concrete and asphalt floors, graded and sewered to suit the materials and construction of the same in their modification to this the best system in use in the principal medical colleges in the North, which is absolutely necessary to prevent saturation by the large quantities of water used, which would destroy the ceilings below.

To complete in a proper and fitting manner the interior of this building in accordance with the best modern practice in construction as applied to medical schools and institutions of this kind in the Northern States, as developed by my studies and researches during my visit to the institutions I have named, will require an additional expenditure above the sum named by me in my report of June 6th last of \$8,500, or a total of \$34,000.

Very respectfully, yours,

N. J. CLAYTON, architect, of N. J. Clayton & Co.

Following data pertaining to the hospital was furnished to Dr. T. C. Thompson, of Galveston, one of the University Regents:

Capacity of general wards.....	96 beds
Capacity of private rooms.....	12 beds
Number of hospital beds.....	80
Average number of patients at present.....	70
Average number out patients per month.....	40
Total number inmates since Jan. 10.....	1000
Total number out patients since Jan. 10.....	425
Total revenue (private and ward) beds from May 8 to Oct. 21.	\$1145 30

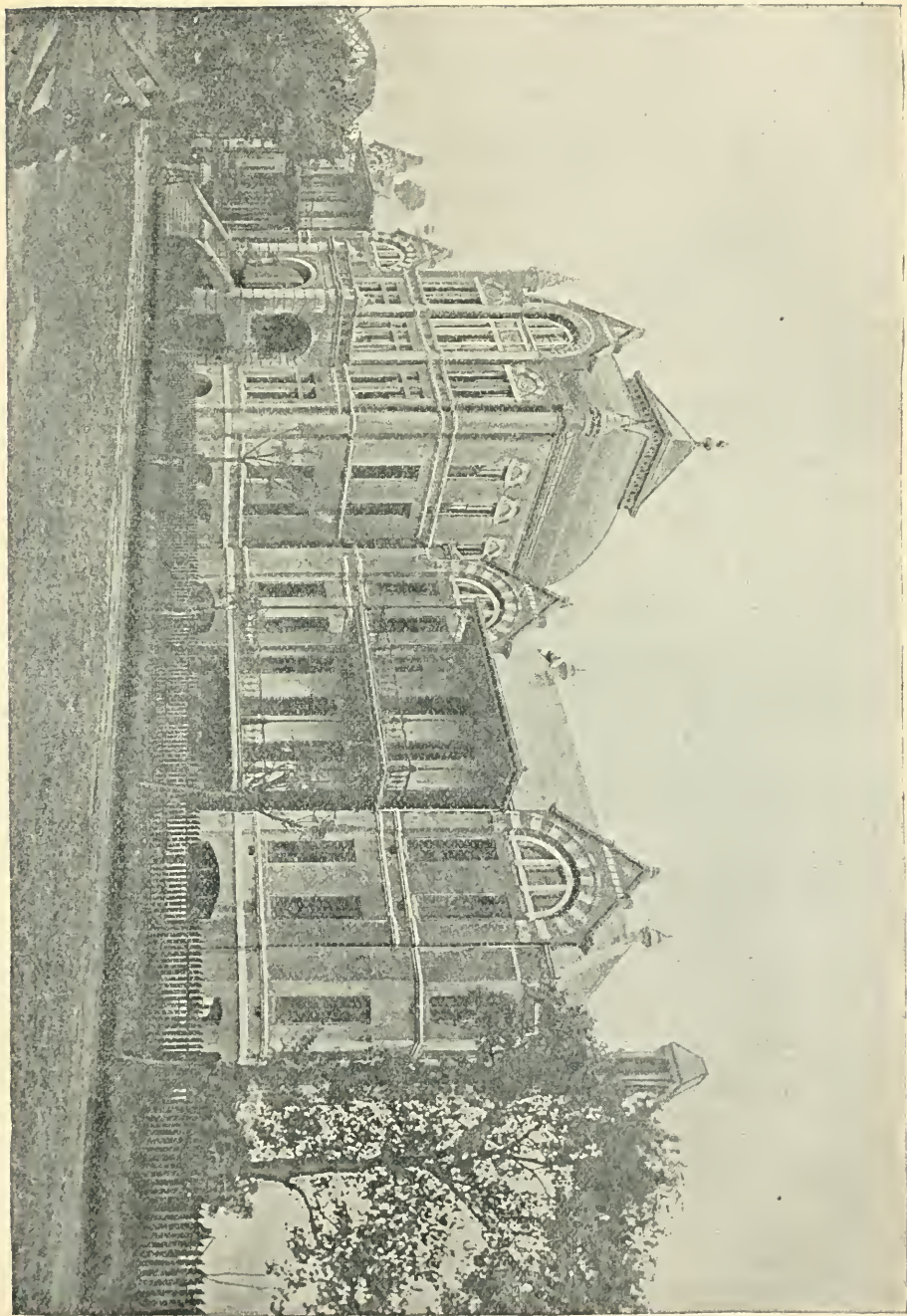
The available capacity of the "Old City Hospital" (now used for colored patients) would be about 30 beds. The rooms on the first floor, at present occupied by the college, would afford additional space, say for 40 beds—this being a low estimate.

A most notable feature in connection with the hospital at this time, is the Ladies Training School for Nurses. They have supreme control (in harmony with our rules and regulations) of the nursing of all white patients, both ward and private, and are discharging such duty most efficiently and satisfactorily to the management. For their special benefit a course of lectures has already been inaugurated, and will embrace such topics in medicine as are necessary for a trained nurse's education. This auxiliary alone is calculated in the near future to give important prestige to the institution. It cannot be otherwise with such prominent and enterprising ladies as are at the head of the movement: Mrs. B. Adoue, Mrs. R. B. Hawley, Mrs. J. G. Goldthwaite, Mrs. George Ball, Mrs. S. Hartley, Mrs. George Sealy, Mrs. W. F. Ladd, Mrs. J. H. Hutchings, Mrs. M. Kopperl, Mrs. John Sealy, Mrs. Andrew T. Mills, Mrs. Walter Gresham, Mrs. Aaron Blum, Mrs. Robt. Irvine, Mrs. P. J. Willis, Mrs. J. C. League, Mrs. Chas. Fowler, Mrs. George Mann, Mrs. L. Fellman, Mrs. W. Zeigler, Mrs. T. J. Groce, Mrs. J. F. Roecke, Mrs. Gresham, and perhaps others whose names are not furnished.

The hospital is at present, and has been for some time, in charge of a very efficient officer, Dr. J. H. Wysong, as superintendent and house surgeon. In appropriate places on the front of the edifice are the following inscriptions: "This Building, erected in 1888, is the Gift of John Sealy to the City of Galveston for the Benefit of Humanity and Science;" "In Memory of John Sealy, born in Wyoming Valley, Penn., in 1822, Settled in Galveston in 1847, Died in Galveston in 1884;" "With malice towards none, with charity for all, he was God's noblest work—an Honest Man." The names of Charles Fowler, J. P. Davie, Dr. Charles W. Trueheart, Dr. J. F. Y. Paine, and John Remeschoffer are also inscribed as the building committee.

The institution is already fairly complete in its outfit and is certainly to be regarded as a great desideratum for the college as a medical branch of the University.

JOHN SEALY HOSPITAL. MEDICAL DEPARTMENT UNIVERSITY OF TEXAS, GALVESTON.



THE FEDERAL COLLEGE LAND GRANT.

[From Publications of U. S. Bureau of Education.]

"At the time of the organization of the Agricultural and Mechanical College in Texas, in 1876, there was but little sentiment in the Southern States against the exclusive study of the classics at the expense of the sciences and mechanic arts, and it is therefore not surprising to learn that the college opened as a classical and mathematical school for academic instruction rather than a technical school for the purpose of special training. While not neglecting the instruction in agriculture and the mechanic arts and the studies adjunct to these, the classical instruction and general culture of the institution received the most attention. In this the institution but supplied the demands of the citizens of the State, and was not contrary to general act of the Federal Government, making the grant and establishing the conditions upon which such school should be founded. But totally unprepared for teaching sciences and agriculture, the multitude of students who flocked to the school did not receive what they came for, dissatisfaction arose, and the school proved so nearly a failure that it was necessary to call a meeting of the directors in November, 1879, when the school was re-organized. The Latin and Greek were consolidated and made subordinate and optional, while the courses in science and agriculture were made more prominent.*

"It is to be noted that the attempt to maintain a system of manual labor on the farm failed here as elsewhere in the majority of cases where it has been tried. It was not till 1882 that the agricultural and mechanical departments were put into full operation. There has been a flourishing military department from the beginning. In 1888 the board of directors, in accordance with the act of Congress of 1887, established an experimental station in connection with and under the control of the authorities of the college.

"A summary of grants shows that the State has made

*This reorganization was effected by the removal of the old board and appointment by Governor Roberts of an entirely new board of managers, who changed nearly every member of the faculty and adopted new methods of instruction and management.

the following liberal appropriations for the support of the school:

In 1871 for building, etc	\$75,000 00
1874 for building, etc.....	40,000 00
1875 for building, etc.....	32,000 00
1876 for building, etc.....	40,000 00
1879 for library and apparatus.....	15,000 00
1881 for improvements.....	4,987 44
1881-82 State students.....	15,000 00
1883-84 State students.....	6,000 00
1883-84 expense of land suit.....	8,000 00
1883-84 repairs, improvements, etc.....	40,000 00
1885-86 maintenance and support.....	30,000 00
1887-89 maintenance and support.....	35,000 00
1888 repairs and further equipment.....	41,500 00
Total State appropriations.....	<u>\$382,487 44</u>

"The State misappropriated from the University fund as follows:

Act July 9, 1879.....	\$15,000 00
Act April 1, 1881.....	15 000 00
Act April 23, 1883.....	10,000 00
Act April 1, 1885.....	10,000 00
Total.....	<u>\$50,000 00</u>

"The productive fund of the institution is two hundred and nine thousand dollars (\$209,000), yielding an annual income of \$14,280; one hundred and seventy-four thousand dollars (\$174,000) being invested in seven per cent State bonds, and thirty-five thousand dollars (\$35,000) in six per cent State bonds. The value of the lands and buildings amounts to \$228,972."

What Edward Everett said in his oration on "Aid to Colleges," quoted by Mr. F. W. Blackmar, from which the foregoing statement is taken, is equally applicable to the question of aid to Universities: "But," said Mr. Everett, "we are still told that common school education is a popular interest, and college education is not; and for this reason the State is bound to take care of the one and not of the other. Now I shall not put myself in the false and invidious position of contrasting them; there is no contrast between them, no incompatibility of the one with the other. Both are good; each is good in its place; and I will thank any person, who can do so, to draw the line between them; to show why it is expedient and beneficial in a community to

make public provision for teaching the elements of learning, and not expedient nor beneficial to make similar provision to aid the learner's progress toward the mastery of the most difficult branches of science and the choicest refinements of literature."

In face of such authority as Mr. Everett, President Elliott, of Harvard University, is cited by Mr. Blackmar as holding in an address delivered in 1873 that the State might provide for universal elementary education on the ground that it was a cheap system of police for the national defense, but that no man ought to be taxed to send another man's son to the high school or college.

It is strange that opposition to State and to higher education should still obtain in such high quarters; and yet not so strange either when expressed by a university president who happened to be seated at the head of a great institution which has had its several million dollars from private munificence, besides over seven hundred thousand dollars from State support, and is now so grandly endowed as to be entirely independent of State aid.

If President Elliott's theory of taxation that no man should be taxed to school other men's children in the more advanced education generally obtained it would virtually preclude the establishment of State universities, and, limiting public instruction to the free schools would exclude the masses from free university instruction, and force them for higher education to patronize pay institutions, which they could not well afford; and in Texas, where the negroes pay comparatively but a small proportion of the State school tax, would largely deprive them of the benefits of instruction in free public schools, as the school fund derived from negro taxation alone would hardly suffice for the single expense of school buildings, much less for the recurring expense of providing teachers and text books.

And what a strange idea that the State should not go further than the simple promotion of elementary education "as a cheap system of national defense," as though her glory as a State, or usefulness in the

national sisterhood, would not be similarly, if not equally, subserved by pre-eminent intellectual culture of her leading citizens, as well as by limited common school education of the masses of the people! What peculiar mental measurement of police sufficiency! What strange adjustment, limiting public education to such admeasurements as mere police or military subserviency! Certainly Dr. Elliott's assumption would better apply to despotic countries where education is compulsory and largely military in its methods, because deemed necessary for the protection of the government, or to promote its martial power and spirit of aggrandizement. It does not suit American ideas and conditions, or the American policy as to educational requirements. Every State should establish and foster its own State University. Such institutions may not exert so general benefits as the free schools, but they radiate a far brighter intelligence, scintillating their effects from the highest sources of knowledge, with a loftier and fuller glow, and an intenser heat of intellectual effulgence. They may not be so generally useful as the common schools; but still are as highly necessary for the public good, involving as they do the higher instruction requisite for rounding and perfecting the ordinary education of the people.

Further along in his book on "Federal and State Aid to Higher Education," Mr. Blackmar says: "It has been held by some individuals, and at times by some Legislatures, that the administration of education by the State is a great extravagance, and a plea of economy and for low taxes is always used to defeat appropriations. To this class of arguments the Hon. Andrew D. White answers as follows:

"Talk of economy! Go to your State Legislatures—what strange ethics in dealing with the public institutions! If asked for money to found an asylum for idiots and lunatics or the blind or the deaf and dumb, you will find Legislatures ready to build palaces for them. Millions of dollars are lavished upon your idiots and deaf and dumb and blind and lunatics. Right glad I am it is so; but when you come to ask aid even in measured amounts for the development of

the young men of the State, upon whom is to rest its civilization and from whom is to flow out its prosperity for ages to come, the future makers of your laws and institutions, how are they to be left to the most meagre provision during all their preparation?"

EDUCATION OF COLORED CHILDREN.

As to the question of the education of the colored race, Governor Ross recently prepared and published an exhibit of what Texas, under democratic rule, has done and is now doing for the education and betterment of the colored race, in which he presents the following statement:

"The democrats have been in power in Texas about fourteen years, but the present school system has been in operation only about ten years. During the last ten years the democrats of Texas have paid to support public schools for the colored children as follows:

School Year.	Colored Children.	Pro Rata.	Amount Distributed.
1879-80.....	57,701.....	\$3 00.....	\$173,103 00
1880-81.....	66,777.....	3 00.....	200,331 00
1881-82.....	68,015.....	3 25.....	221,048 75
1882-83.....	75,341.....	3 61.....	272,357 70
1883-84.....	80,065.....	4 50.....	336,292 50
1884-85.....	103,536.....	5 00.....	517,680 00
1885-86.....	115,941.....	5 20.....	622,893 20
1886-87.....	124,842.....	4 75.....	592,999 50
1887-88.....	125,515.....	4 50.....	582,817 50
1888-89.....	135,184.....	4 00.....	540,736 00
Total.....			\$4,064,250 15

In ten years, he adds, the colored scholastic population increased 134 per cent and the white 113 per cent. Owing to over estimates of the available school fund in 1885 and 1886, there were deficiencies which had to be met out of the school revenues of the years 1888 and 1889, reducing the pro rata, by which reduction the white and colored children suffered equally."

In the same connection, it may be added, that the constitution of 1866, (section 7), while declaring that "the Legislature may provide for the levying of a tax for educational purposes," also provided that all the sums arising from said tax which may be collected

from Africans, or persons of African descent, shall be exclusively appropriated for the maintenance of a system of public schools for Africans and their children; and it shall be the duty of the Legislature to encourage schools among these people."

Such special provision was, however, dropped from the constitution of 1876, thus allowing for the education of colored children the benefits of a pro rata of the State's entire school fund, instead of the limited amount collected by taxation from colored people.

The question of higher as well as ordinary education of the colored race is one which demands attention of the University regents, as well as of the legislature, under the requirements of the law providing for a colored branch university. If it is intended to put it at once into operation the regents should be provided with separate funds in addition to those of the university fund. As has been suggested it might be better to give the colored people a separate university. Either this, or if it is not practicable under the constitution, let the scope of the Prairie View colored school at Hempstead be raised for the present to as high standard as practicable for their more advanced education, or such as may be advisable in the line of university education. It has also been suggested that some arrangement might be advantageously effected by the State to incorporate the Tillotson Institute, as a university for the colored people, or as a branch of the State University required to be located for them at Austin. If there is a constitutional inhibition in the way of solving this matter so that the State, if desired, can give the colored people an independent university, instead of a branch institution, then the constitution would seem to be out of joint with the changed relations of the people of both races.

CHAPTER III.

ESTABLISHING THE UNIVERSITY.

"COLLEGES OR UNIVERSITIES."

At the same session of the third congress of Texas, which provided for locating the Capitol and the University, there was passed "an act appropriating certain lands for the establishment of a general system of education," approved January 26, 1839, in which the president was required to have surveyed fifty leagues of land, to be set apart for the establishment and endowment of two colleges or universities."

It is strange, that following this, no mention is made of this land, or the question of a university or universities in the constitution of 1845. Subsequently, however, in pursuance of law, the lands were located and surveyed in the counties of Cooke, Fannin, Grayson, Hunt, Collin, Lamar, McLennan, Hill, Callahan and Shackelford, and have, most of them, been sold under laws for that purpose. About thirteen thousand acres of the McLennan lands, and some eight thousand acres in Grayson county, remained in litigation, and provision was made by law to quiet title to them, (acts of 1879 and 1881). By special acts of January 4, 1862, December 16, 1863, and October 20, 1866, time for paying interest on the lands in litigation was extended. The lands in McLennan county, alleged to have been located in conflict with a Spanish grant to Joachin Morena, and on which interest had consequently been suspended, had mostly been sold under an act of 1874, and by act of March 6, 1875, it was further provided that settlers upon the Hill and McLennan lands should not be compelled to pay the amounts due upon said lands until the suit pending in behalf of the Moreno grant shall have been decided and the title to the land settled. A favorable compromise of the Moreno controversy has recently been effected through the efforts of Gov. Ross with Gen. Mexia, of Mexico, by which the

title to about 6,000 acres of the McLennan lands has been confirmed to the State, and the present Land Commissioner, Capt. Hall, at once placed on sale for the University such lands as had not been sold, which, unfortunately for the University, as they are now so much more valuable, were only a few hundred acres. The compromise was virtually about one-half for the other and is very favorably regarded by Judge Clark, of Waco, who was the attorney in the case, as the title was so old and clouded any recovery whatever was doubtful and the State was not likely to substitute other lands for them to the University. These lands, though now so much more valuable, were mostly claimed from the State at \$1.50 per acre, the State's original price for all "school and University lands," and with indulgence from paying up the interest till the suit as to the title from the State was settled.

There are persons familiar with the matter who do not consider the compromise as advantageous to the University as might be supposed, though quite advantageous to the State, since the latter has the benefit of the lands to make good titles she assumed to confer in selling them for actual settlement, while the University, as most of them had been sold by the State, has to accept the State's old price for them \$1.50 per acre under the act of 1874 under which the sales were made. The McLennan lands (about 6,000 acres) embraced some that had been sold and patented, and a few hundred acres only as stated that had not been sold at all. As to the value of the lands embraced in the fifty leagues which had been given to the University and of which the McLennan lands were a part, Governor Throckmorton stated in his message to the legislature in 1866, that 58,523 acres of the fifty leagues (221,400 acres) which were surveyed in 1856 had been sold at an average price of \$3.34 per acre. Prior to the compromise with Gen. Moreno, Land Commissioner Hall held that the act of 1875, extended the time of payments only on purchases actually effected, by partial payments at least, made before 1875, but the purchasers who had no patents claimed that the exemption applied generally so that they were not in default and

were entitled to the non patented lands which the State sold to them at the state's then minimum price, \$1.50 per acre, though they were worth much more when sold, and so much more now, most of them from \$5 to \$20 per acre.

Land Commissioner Hall furnishes the writer the following statement as to these lands: "The lands secured to the State for the University, by the recent compromise, in McLennan County had been sold under the provisions of an act of 1874, with the exception of a few small tracts which are comparatively worthless. The relief act of March 6, 1875 extending time for payments for the lands in litigation on account of the Moreno grant virtually suspended payments of interest on these lands, but since the recent compromise with Mexia, payments have been made of interest and principal in full and patents have been issued in many instances. From this source the available fund of the University has been largely increased during the present year, in many cases the accumulation of ten years interest having been paid at one time. Some purchasers wanted the interest abated, but the landoffice ruled against them, and construed the law to require payment of interest from the date of the contract of sale. Upon that ruling they paid up the interest from the date of contract in accordance with the terms of purchase, and in some instances the interest amounted to much more than the principal. Some of them proposed to pay the principal without the interest, and refer the question of paying the interest to the action of the legislature, but State Treasurer Lubbock held that he would receive no payments of the principal till the interest was paid."

The University lands are sold by the State Land Commissioner and the proceeds are invested by the State Board of Education in bonds or other securities for account of the permanent fund of the University, and the interest is reserved for available fund.

THE UNIVERSITY AND THE FREE SCHOOLS.

The Constitution of 1845 (Art. 10, Sec. 1,) made it the duty of the legislature to make suitable provision

for the maintenance and support of public free schools and the same provision is contained in the constitutions of 1861, 1866 and 1876. The University for which the congress of the Republic had so early provided in 1839 was not mentioned in the first State constitution of 1845, perhaps on account of its being then merely in embryo and its establishment not pressing upon the public mind; or possibly, and if so, properly enough, because it was considered part and parcel, as a great free tuition school, of the general free school system of the State, not requiring special designation to bring it within the scope and benefits of the general provisions for free school instruction. As an evidence that it was regarded in this light, it is declared in the preamble to the act of Feb. 11, 1858, establishing the University that "from the earliest times it had been the cherished design of the people of the Republic and of the State of Texas that there shall be established within her limits an institution of learning for the instruction of the youths of the land in the higher branches of learning, and in the liberal arts and sciences, and to be so endowed, supported and maintained as to place within the reach of our people, whether rich or poor, the opportunity of conferring upon the sons of the State a thorough education." Thus it is made the duty of the University as a factor in the State's own provision for free education to complete the work begun in the public schools so as to afford the advantages of higher education to the poor as well as the rich.

As further evidence of such regard of the University the law requires the regents to submit their reports to the State Board of Education. (Sec. 21, University act of 1881.

The following references, gathered from debates published in the Austin State Gazette serve to show the division of public sentiment as to University and free schools:

In the Sixth legislature in December, 1855, a bill to provide for the erection and support of a State University being under consideration in the senate, Mr. Palmer argued in favor of a single University of which the State and the entire South might be proud. Mr. Lott favored

two universities and moved to strike out of the caption "a University" and insert "two Universities." Mr. Bryan opposed the amendment and moved to lay it on the table, but the motion failed.

Mr. Grimes argued that the appropriation proposed, \$300,000, was not sufficient, and as they seemed determined to have two universities he moved to amend by making the amount \$500,000. Adopted.

Mr. Millican moved to make the appropriation \$1,000,000. Lost.

Mr. Palmer offered as a substitute "A bill to establish a State University," and spoke at length in support of the bill. Mr. Russell distrusted the propriety of the movement at that time, when there were no facilities of transportation. We should first establish some system of internal improvements, but, he argued, we have ample means, and if the work must be commenced, he was in favor of two institutions.

Mr. Flanagan preferred two universities, arguing that the time had come when the State could well afford to support two splendid universities, such as the honor of this great State demanded. The State's vast territory justified this, and they would be rival institutions inciting each other to improvement and development. He argued that Texas had greater resources for educational endowments than any State in the Union, and could well maintain two universities.

Mr. Bryan alluded to the economics of the measure. A single university of the highest character, he argued, would unite the people in its support, and prevent sending our children to institutions abroad, carrying away with them each three, four or five hundred dollars every year to be distributed beyond our borders, and much of it among those who are enemies to our institutions and will spare no pains to instill into the minds of our children doctrines and prejudices antagonistic to the opinions of the South.

Mr. Taylor of Cass favored two universities rather than one, but thought it was not the proper time for them. Mr. White favored a single university and made a strong speech in its favor.

Mr. Maverick protested against the whole thing as

wrong; the country did not want either one or two universities. If we had a university there is far more likelihood that it would have to be abated as a nuisance than that we should desire another. The schools, he argued, must first be established for the general wants of the people before we advance to academies and universities. If put on foot before the people call for it, a university, not being wanted by the people or properly constituted, will be sure to set itself up as a secret, malignant enemy of the people. It is curious, too, he added, that we must begin with a university—so nice, so fine and so religious! I trust there is a mistake in this calculation. And look out to see if some wise heads are not hit and badly bumped against these high and mighty walls of humbuggery. Such and so rank are the offenses at West Point and other high schools and universities that ere long the public must either transform or suppress them.*

Mr. Armstrong opposed establishing colleges or universities till the State had established a system of common schools for the masses. "Colleges," he said, "are generally the hotbeds of immorality, profligacy and licentiousness. We see the characters of more youths corrupted and depraved in colleges, more persons who come from colleges who end their lives by committing suicide than we do of those who come from the common schools of our country. They also have a tendency to create an aristocracy, and raise a distinction between different classes of our citizens. Let us provide a practical and efficient system of common schools, in which the exercises shall alternate between labor and study so that the body of the student may be developed in proportion to the advancement of the mind."

*Mr. Maverick, who had himself been favored with the finest educational advantages, was a gentleman of sterling character, and quite wealthy, being one of the largest land and cattle owners in the State. He raised his children to exercise peculiar habits of industry and economy, and was peculiar in other respects. It is related of him, for instance, that he would generally take the middle of Congress Avenue to avoid being jostled by the crowds which often thronged the sidewalks during sessions of the Legislature. It is also stated that to have the benefit of any doubt as to the ownership of any unbranded yearling calves found and raised on his ranches, he had them marked with his own brand, as would seem proper, and that from his adherence to this rule the term "mavericks" came to be applied generally to all such cattle in Texas.

Mr. Guinn endorsed the dual plan, and thought it was the proper time to decide the matter. Mr. Scott agreed with Mr. Maverick that there was no necessity for such institutions, but if an appropriation must be made he would favor two universities. He offered as a substitute a bill appropriating \$1,000,000 of the five per cent United States bonds as an additional fund for common schools.

Mr. Palmer said: "I sincerely hope that the senate will not destroy all the benefits which are commonly derived from institutions of this character by frittering away the means we propose to donate by starting two universities, neither of which can be such an institution as what we now have in contemplation."

Mr. Bryan, seeing that the prevalent idea in the legislature favored two Universities rather than one, or else to test the matter, finally offered a substitute to establish two of them, one in the Eastern and the other in the Western part of the State.

The senate refused to table the substitute and the whole matter was referred to the committee on education.

As to Mr. Armstrong's argument based on suicides, it will be noticed that he makes no allowance for the great disparity between the number of persons who attend the schools and those sent to colleges and universities.

As to the probable resources of the State about this period, they may be inferred from the following statement, taken from an official source, and referring to the U. S. bonds alluded to in Mr. Scott's amendment:

"From 1852 to 1858 no tax was collected for the support of the State government. One-tenth of the taxes assessed was paid into the State treasury for school purposes, and nine-tenths was remitted to the several counties. The expenses of the government for these years were paid from taxes accrued prior to 1852 and from the proceeds of the sale of a portion of the territory of the State (Santa Fe's portion) to the United States government. Of the proceeds of this sale, \$5,000,000 in United States bonds was paid into the State treasury in February, 1852, and up to January,

1861, the State received interest on the same, amounting to \$1,625,441.17, making total principal and interest \$6,625,441.17." [Internal Commerce of the United States 1889.]

In the Seventh legislature in November, 1887, Mr. Kittrell, chairman of the house committee on education to whom was referred a resolution instructing them to enquire into the expediency of establishing one or more State Universities, reported recommending "the establishment of a State University as soon as practicable." Mr Kittrell spoke at length in favor of the report and stated that he had just learned that the senate committee had decided to recommend a liberal appropriation in land and money for this object. He stated there was still in the State treasury \$500,000 unexpended balance of the United States bonds not needed for any other purpose.

Mr. Jennings favored the report and took occasion to argue that the medical department should be located at Galveston or Houston, and that the literary department should not be at Austin. "I have three sons" he said, "and I say it in the presence of God and my country that I would let them be uneducated stock raisers or mule drivers, before, in the effort to become well educated, they should learn the accomplishments of Congress avenue." He wanted the literary department fixed on some "virgin league of land."

Mr. Chilton preferred two universities, but would go with the majority if they voted that proposition down and would vote for a single university, and advocate its location at Austin. Mr. Murrah (subsequently Governor Murrah) wanted a single university, provided it should be favorably located in the eastern portion of the State, where the country was more healthy than in the prairie portions. Mr. Everett said: "It seems there are gentlemen here who are disposed to go beyond the example of every other State in the Union, and force upon the people of the State of Texas the establishment of two universities. We are able to build but one university. Let us have that and its great benefits." Mr. Norton protested against taking the land and money of the people \$400,000 and 442,800 acres of land, as

proposed, to establish one mammoth university for the benefit of a privileged class; that the children of the rich may be educated and those of the poor neglected. He would favor appropriating the entire fund contemplated for the university to the common schools of the State.

Messrs. Aycock and Buckley spoke in favor of a single University.

Mr. Locke, speaker of the House, did not believe the people were ready for a University and opposed its establishment. Mr. Price and others favored having but one and deprecated the proposition of two Universities, as rival institutions that would foster sectional feeling and discord among the people. Mr. Brown favored the proposition for but one University, but not so large an appropriation for it as was proposed.

Mr. Dennis advocated the establishment of but one University, arguing that "with a population of over 600,000 people and \$700,000 in the treasury and a revenue of \$255,000 and the State free from debt we may safely appropriate from \$200,000 to \$400,000 for the purpose of erecting the necessary buildings that will stand as just monuments of State pride and be of incalculable benefit to thousands."

Mr. Whaley argued that the institution was anti-democratic, not for the greatest good to the greatest number; that it would be "a magnificent failure," an "intolerable burden upon the people," and that its establishment would be legislating for a special class, and that class the favorites of fortune, who were the only ones that could and would take advantage of such an institution, and who were able to take care of themselves.

Mr. Ward, for political reasons, in case there should ever be a division of the State, advocated two Universities. Would it be right, then, he argued, that one section alone should possess this mammoth enterprise, reared up and maintained by the common blood and treasury of the whole State?

Mr. Burnet said that he would vote against the bill, as we were acting too hastily. "The question," he argued "should be thoroughly canvassed before the

people and their voices should be heard, as they are the ones to furnish the money to build this University." He wanted the common school system placed upon a firm basis before 'vesting the people's money and domain in any enterprise of doubtful expediency.'

Mr. Hicks discussed the sectional question as likely to be affected by having two Universities.

February 8, 1858, the bill relating to a State University came up in the House, the pending question being its final passage; and the ayes and noes being demanded, several members asked to be excused from voting. The House refusing to excuse them, some of them declined to vote. A discussion ensued as to points of order and modes of enforcing the rules, in which Mr. Speaker Locke, Messrs. Bee, Kittrill, Walling, Reeves, Evans, Lee, Latham and others participated. The clerk finally proceeding with the call, Mr. Poag, when his name was called, after giving his views in regard to the history of the previous action of the House on the subject, and the present position of the question, concluded as follows:

"Now there is in our constitution a regulation which declares, that when any proposition has been once distinctively put to a legislature and rejected, that legislature is forbidden to act upon that particular proposition again. And it makes no difference to me how it may be changed, if it embraces the substance of the proposition which has been rejected. I feel it to be my bounden duty to obey this provision of the constitution. I have no conscientious scruples to prevent me from voting upon this question. I feel as much bound to vote against the passage of a law which I regard as unconstitutional, in consequence of previous action of the legislature, as I would feel myself bound to vote for a law which I regard as constitutional, and for the benefit of my constituents and the State at large. For these reasons I vote against the whole matter."

Mr. Rainey said: "On account of the constitutional objections urged by the gentleman from Panola (Mr. Poag)—because a resolution upon the same subject, and embracing the same substance, has been rejected heretofore by this body, and the constitution prohibiting

the passage of a law, bill, or resolution that has been once rejected, by either branch of the legislature—I do not believe we now have a right to act upon it; and because, although I have been very anxious to vote for a bill of this character in some shape, the bill now before the House does not meet my approbation, without any further excuse or attempt at palliation or mitigation, or anything else, I vote No.”

Mr. Reeves: “I ask to be excused from voting, not upon the grounds which have been stated by any other gentleman, but under the 60th rule, which says that no member shall vote upon any question, in the event of which he is immediately, or particularly interested. I felt that I am particularly interested in this matter and I wish to be excused under the rule.” The House refusing to excuse him, he proceeded: “I always submit cheerfully to whatever the House says. But I do say that I believe this body has once acted upon the same question, and that if we were to pass it now, under the constitution it could not become a law, I therefore vote no.”

Mr. Waterhouse made some remarks inaudible to the reporter. He said he believed this bill would have been as unconstitutional, if presented for the first time, as it is under present circumstances. He would therefore vote no.

After the roll call had been called through, Mr. Speaker Locke said; “The chair is informed that we lack one of a quorum. I do hope that gentlemen will not assume the responsibility of defeating this measure by refusing to vote, It is a fearful responsibility to take.”

Mr. Latham: “I call for the announcement of those who have refused to vote.”

Mr. Chilton: “I am about to do a thing which I am not satisfied that I am right in doing. But I believe we were sent here to live for each other; and my friends are directly interested in the passage of the bill at this time. I have fought it as long as I could in accordance with my convictions of duty. But as it is evident there is a large and respectable majority of this House in favor of this legislation, and by recording my

vote No, I put myself right upon the record, I will do so. I vote No."

The bill passed by a vote of 48 yeas to 13 nays.

Mr. Chilton at once introduced a bill entitled "An act setting apart fifty leagues of land for the establishment of a Literary College in Eastern Texas." The bill was read, but the House refused to suspend the rules for its consideration.

The proceedings are interesting to show the sentiment in the minds of the representatives of the people at that period in the history of Texas.

UNIVERSITY ACT OF 1858.

Following is the full text of the act of 1858: "An act to establish the University of Texas." Whereas, From the earliest times it has been the cherished design of the people of the Republic, and of the State of Texas that there shall be established within her limits an institution of learning for the instruction of the youths in the land in the highest branches of learning, and in the liberal arts and sciences, and to be so endowed, supported and maintained as to place within the reach of our people, whether rich or poor, the opportunity of conferring upon the sons of the State a thorough education, and as a means whereby the attachment of the young men of the State to the interest, the institution, the rights of the State and the liberties of the people, might be encouraged and increased, and to this end hitherto liberal appropriations of the public domain have been made; and, whereas, the increasing population and wealth of the State and the tendency of events indicate the fitness of now putting that cherished design into effect; therefore,

Section 1. Be it enacted by the legislature of the State of Texas, That there is hereby established within the state an institution of learning to be styled "The University of Texas," to be located at such place and in such manner as may be determined by law.

Sec. 2. The sum of one hundred thousand dollars of the United States bonds in the treasury not otherwise appropriated is hereby set apart and appropriated to the establishment and maintenance of the same.

The fifty leagues of land which by the act of January 26, 1839, entitled "An act appropriating certain lands for the establishment of a general system of education," were set apart and appropriated for the establishment and endowment of two colleges or universities, are hereby set apart and appropriated to the establishment and maintenance of the University of Texas. There is hereby set apart and appropriated to the same purpose one section of land out of every ten sections of land which have heretofore been or may be hereafter surveyed and reserved for the use of the State, under the provisions of the act of January 30, 1854, entitled "An act to encourage the construction of railroads in Texas by donations of land," and under the provisions of any general or special law heretofore passed, granting lands to railroad companies, and under the provisions of the act of February 11, 1854, granting lands to the Galveston and Brazos Navigation Company. The Governor of the State shall select the sections hereby appropriated, so that no sections shall adjoin, out of the lands now surveyed, as soon as practicable, and out of the lands hereafter to be surveyed, as soon thereafter as practicable, and shall cause a record to be made, in the land office of the State, of the sections so selected; and, thereupon it shall be the duty of the Commissioner of the General Land Office to designate, upon his maps, the sections so selected as University lands. The sale of these sections shall hereafter be regulated by a special law.

Sec. 3. The control, management and supervision of the University, and the care and preservation of its property, subject always to the control of the Legislature is committed to a board of ten persons to be styled "The Administrators of the University of Texas" which shall be composed of the Governor of the State of Texas, the Chief Justice of the Supreme Court of Texas and eight others, who shall be appointed by the Governor, by and with the consent of the Senate, to hold office for four years, and until their successors are qualified. The Administrators shall receive no compensation for their services.

Sec. 4. The following branches of learning shall be

taught at the University, viz: Ancient and Modern Languages, the different branches of Mathematics, pure and physical, Natural Philosophy, Chemistry, Mineralogy including Geology, the principles of Agriculture, Botany, Anatomy, Surgery and Medicine, Zoology, History, Ethics, Rhetoric and Belles Letters, Civil Government, Political Economy, the Law of Nature, of Nations, and Municipal Law.

Sec. 5. The religious tenet of any person shall not be made a condition of admission to any privilege or office in the University; nor shall any course of religious instruction be taught or allowed, of a sectarian character and tendency.

Sec. 6. The administrators shall have the power to appoint the president, faculty, instructors and officers of the university, and prescribe the course of instruction and discipline to be observed in the university. They shall fix the salaries of the president, faculty, instructors and officers of the university. Five of the administrators, with the Governor or the Chief Justice, lawfully convened, shall be a quorum for the transaction of business. They shall meet at least once in every year for the transaction of business, and shall keep a record of their proceedings. They shall have a secretary, to be elected by them. They shall have power to make all regulations, which, to them, shall seem expedient for carrying into effect the design contemplated by the establishment of this university, not inconsistent with the laws of the State.

Sec. 7. The administrators shall have the right of conferring on any person whom they may think worthy thereof, all literary honors and degrees known and usually granted by any university or college in the United States, or elsewhere.

Sec. 8. The administrators shall report to the Legislature, at each session, the situation of the affairs of the university.

Sec. 9. Instruction at the university shall be free, and the administrators shall prescribe what degree of proficiencies shall entitle students to admission.

Sec. 10. A committee, to be appointed by the Legislature at each session, shall attend the annual exami-

nations of the students of the university, and report to the Legislature thereon.

Sec. 11. The reasonable expenses incurred by the administrators and visiting committee in the discharge of their duties shall be paid out of the funds of the university.

Sec. 12. The Treasurer of the State shall be treasurer of the university funds.

Sec. 13. So soon as the location of the university is determined upon, it shall be the duty of the administrators to proceed to the construction of the necessary buildings, and for that purpose, they shall procure the services of a competent architect, who shall superintend the work. Such plan and design for the buildings shall be adopted, as shall be consistent with the addition of wings, or other structures hereafter, without marring the architectural beauty and fitness of the whole. There shall be constructed suitable buildings for the accommodation of the professors and their families. The contracts for the buildings shall require the performance of the work under ample security for its fitness and faithfulness.

Section 14. The expenditures of the university for the construction of buildings, or otherwise, shall be made under the order of the administrators; and when money is required for the payment of the same it shall be drawn upon the warrant of the governor, countersigned by the secretary upon the treasurer, who shall pay the same out of the university funds. And this act shall take effect and be in force from and after its passage. Approved Feb. 11, 1858.

As to Reservation in act of 1854, see Oldham & White's digest 371, article 1676, section 11.

EFFORTS FOR TWO UNIVERSITIES.

Attempts were made in the Eleventh Legislature to establish two universities, as indicated by the following action:

Act of November 12, 1866, amendatory of an act to establish the University of Texas, approved February 11, 1858.

Section 1. Amend to read, "That there is hereby established within this State an institution of learning to be styled 'The University of Texas,' to be located at such place as the administrators shall select, and in such manner as may hereinafter be determined.

Sec. 2. That section 2 is hereby amended as follows: The sum of \$109,472.26, which was transferred from the university account to the State revenue account, under the provisions of an act passed Jan. 3, 1860, be and the same is hereby required to be again placed to the credit of the university fund, in conformity with section one of an ordinance of the late convention, securing the common school and university fund and for other purposes; and it is hereby made the duty of the comptroller to execute a State bond for that sum, bearing interest at the rate of five per cent per annum, and when executed the same is hereby set apart and appropriated to the establishment and maintenance of the same.

One-half of the proceeds of the fifty leagues of land which, by the act of Jan. 26, 1839, entitled "An act appropriating certain lands for the establishment of a general system of education," were set apart and appropriated for the establishment and endowment of two colleges or universities are hereby set apart and appropriated for the establishment and maintenance of the University of Texas, the remainder to be reserved for the benefit of a similar university, which at some future time may be necessary to be established in a different portion of the State.

Sec. 3. Provides what branches of learning shall be taught, and that there shall be added a system of normal schools; and "there shall also be a course of instruction delivered on the science and art of war in order to qualify the students to perform efficiently their duty in the militia, to enable them to read understandingly the great battles of the world which have decided the fate of empires and influenced the progress of civilization of nations."

Section 4 empowers the administrators to appoint and fix salaries of the chancellor, professors, etc., pre-

scribes course of instruction and discipline, and defines their other duties. They are to have a secretary.

Section 5 provides for free tuition and prescribes rules for admission of students.

Section 6 provides for a committee of both houses of the legislature to attend the annual examinations of the students and report to the legislature.

Section 7 provides for erection of buildings as soon as the location is determined, the construction to be under the supervision of a competent architect. The buildings are to be constructed with reference to the addition of wings. The funds are not to be used to build houses for the officers or dormitories for students. Approved November 12, 1866.

Joint Resolution of November 13, 1866: Whereas, by a recent act of the Eleventh Legislature, twenty-five leagues of land were reserved for the establishment and endowment of another University, contradistinguished from the "University of the State of Texas;" And whereas, the increasing population of the State, its vast extent and the absence of the necessary facilities of travel render it important that this University be located; Therefore be it resolved: That A. M. Perkins of Jasper county, J. H. Starr of Nacogdoches county, James Graham of Lamar county, Mont Hall of Harrison county, I. L. Camp of Upshur county; D. W. Jones of Titus county, W. B. Dashiell of Kaufmann county, W. K. Marshall of Rusk county, J. K. Bumpus of Collin county, Dr. Cooper of Panola county, Wm. Moore of Bowie county, M. H. Bonner of Cherokee county, J. M. Perry of Anderson county and J. C. Hardin of Smith county be and the same are hereby created a Board of Administrators of said University, to hold office four years, and soon as practicable select a suitable location for the University in a different section of the State from that of the "University of Texas," to be known as the "East Texas University." The sum of \$2,500 is appropriated for the board's expenses to make the location. Approved November 13, 1866.

RECOMMENDATIONS OF THE TEACHERS' ASSOCIATION.

At the State Teachers' Association of Texas, held in June, 1880, at Mexia, Governor Roberts attended and

expressed his views upon the propriety of inaugurating a movement for the establishment of the State University and asked the countenance and assistance of that body in the effort—not that the State was now able to establish it on a large scale, but that it could be started, and, until it was started, it would never be known and appreciated what such an institution required for its successful operation. The subject was discussed by the association and a committee was raised to memorialize the legislature, through the governor, in favor of it. The committee was composed of Oscar H. Cooper, chairman, and W. C. Crane, S. G. Sneed, R. W. Pitman, Smith Ragsdale, Jno. G. James and O. N. Hollingsworth. The memorial having been drawn up, was signed by the committee and attested by A. J. Roberts, vice president of the association. It contained the recommendation of the main features of the bill that afterwards became a law for the establishment and organization of the University. Having been handed to the governor by the chairman, it was presented with his message to the legislature January 28, 1881. The governor had already, January 26, urged the propriety of at once establishing the University at the State capital for numerous reasons, and that it should be open for females as well as males qualified to enter. His official suggestions doubtless had great weight in influencing the vote of the people to locate the institution at the capital of the State where, as a rule, all State institutions should be established. The bill was drawn up by Professor Cooper, assisted by one of the committee, O. N. Hollingsworth, and after being submitted to the governor was handed to Senator John Buchanan of Wood county, through whom, as chairman of the Committee on Education, it was laid before the Senate. The journals of the legislature show that Senators Buchanan, A. W. Terrell of Travis, Wynne of Rusk, Gooch of Anderson and Stubbs of Galveston were active in carrying it through in the shape it passed by a unanimous vote of the Senate, and that it passed in the House of Representatives without any serious difficulty. (See sketch of Governor Roberts in Daniel's "Types of Successful Men of Texas.")

ACTION OF THE SEVENTEENTH LEGISLATURE.

Governor Roberts but briefly alluded to the University in his message of January 26, 1881, to the Seventeenth legislature convened in regular session. Its affairs, however, received further consideration in the course of the session. The members of the Senate of that session, named in the order of their respective districts, were: S. B. Cooper, W. W. Withered, R. M. Wynne, W. H. Tilson, R. L. Hightower, W. J. Swain, John M. Duncan, John Y. Gooch, H. W. Lightfoot, John C. Buchanan of Wood, J. M. Martin of Cooke, W. D. Lair, Anson Rainey, F. M. Martin of Navarro, J. N. Henderson, J. T. Buchanan of Grimes, W. M. Burton, Chas. Stewart, J. B. Stubbs, W. K. Homan, A. J. Harris, L. S. Ross, W. R. Shannon, J. H. Davenport, A. W. Terrell, A. W. Moore, S. C. Patton, E. R. Lane, S. Powers, A. W. Houston and W. H. Burges.

Lieutenant Governor L. J. Story, in his address as President of the Senate, thus alluded to the University: "What Texan's heart does not throb with delight as he contemplates the prosperity before us, and, as I believe, in the near future, for the erection of a first-class State University? Already the princely fund provided by our patriot fathers for this purpose is believed to have reached the value of \$2,500,000, and the demand is coming up from every quarter that the legislature shall declare that it is now 'practicable,' and that it shall proceed to 'establish, organize and provide for the maintenance, support and direction of a university of the first class, to be styled the University of Texas.' Let the good work begin at once and be pressed to an early completion, and, as soon as possible, save to Texas the quarter of a million dollars annually contributed by her people to build up and support institutions of learning in other States where they send their children to be educated. And, better still, let the heroic deeds of our patriot fathers be studied by the youths of Texas in our own institutions, and from the proud dome of our University, as it towers above the hilltops of the Capital City, let them map out for themselves the pathway to fame and to fortune.

January 19 Senator Lane introduced a bill entitled "An act to adjust the State's indebtedness to the University fund and to make an appropriation therefor." Referred to Committee on Finance.

February 3 the bill was taken up and unanimously passed by the Senate, and on April 1 a message announced that the bill had been defeated in the House.

January 29 the message of Governor Roberts was received, transmitting a memorial of the State Teachers' Association, previously referred to, urging the immediate organization of a State University and expressing the views of the Association as to a plan of organization. Referred to Committee on Education.

Among the features suggested in the memorial were these:

Organization of but one University.

Regents to consist of one member from each congressional district, appointed by the Governor.

The regents to be empowered and required to elect a President of the University and members of the faculty and other officers of the University and fix their salaries.

No religious qualifications to be prescribed or religious instruction of a sectarian character to be taught in the University.

The State Treasurer to be Treasurer of the University.

No University funds to be used for erecting dormitories, professors' houses or mess halls.

Election to locate the University to be ordered at the earliest date possible.

January 31 Senator Wynne offered a resolution which was adopted, "That the Committee on Educational Affairs be requested to consider the propriety of establishing a State University, and report their action by bill or otherwise."

February 1 Senator Buchanan of Wood introduced a bill, Senate bill 98, entitled "An act to establish the State University." Referred to Committee on Education.

February 11 Senate bill 98 was considered.

Amendment by Senator Gooch was adopted, that the

University shall be open to male and female students on equal terms. Amendment by Senator Stubbs, providing that the medical department may be located by vote of the people at a different point and as a branch of the main University, was lost and the bill was ordered engrossed.

Senator Stubbs' amendment was subsequently adopted—yeas 17, nays 6, the latter being Buchanan of Wood, Cooper, Gooch, Ross, Terrell and Wynne, and the bill passed. Senators Wynne and Cooper presented written reasons for opposing the Stubbs amendment.

March 28 a message from the House announced the passage of the bill with House amendments. The Senate concurred in the amendments.

A message from the House announced the passage of Senate bill 290, "An act to provide for the protection of the title of the State to the University lands in Hill and McLennan counties." The bill was signed by the President of the Senate.

March 29 Senator Buchanan introduced a bill to amend Section 5 (relative to appointment of regents) of an act entitled "An act to establish the University of Texas." The bill was referred and reported from the Committee on Education, and was unanimously passed and signed by the President of the Senate.

The President signed Senate bill 134, "An act to provide for the issuance of manuscript bonds of the State for the investment of the funds derived from the sale of the lands belonging to the State University, the public schools of the State, etc."

April 1. A message from Governor Roberts announced the following appointments of University Regents: Hon. T. J. Devine, of Bexar county; Dr. Ashbel Smith, of Harris county; Gov. J. T. Throckmorton, of Collin county; Gov. R. H. Hubbard, of Smith county; Gov. E. M. Pease, of Travis county; Dr. James H. Starr, of Harrison county; Mr. A. N. Edwards, of Hopkins county; Prof. Smith Ragsdale, of Parker county.

Another message was received from the governor as follows: "Learning there is some objection to the appointment of Governor Pease, and not having consulted

him on the subject of sending in his name to the senate as one of the regents of the university of Texas, I beg leave to substitute the name of Hon. James H. Bell, of Travis county."

The appointments were confirmed.

After some minor business the Senate adjourned sine die.

The objections to Governor Pease are understood to have been on account of his political views as to the management of the University.

There being no Journal of the House proceedings for this session preserved in the State department, the following references are from the columns of the Statesman: January 28, 1881, the memorial of the State Teachers' association urging the establishment of the University as already noticed in the Senate proceedings was read and referred to the Committee on Education.

February 4. Senate bill 50, "An act to adjust the State's indebtedness to the University fund and make an appropriation therefor," was referred to the Finance Committee.

February 7. In compliance with a resolution of the House that Committee on Education report as to the propriety of establishing a State University, Mr. Hutcheson, for the committee, reported a bill entitled "An act to establish the University of Texas." The bill was ordered printed.

February 14. Mr. Todd introduced a memorial from citizens of Jefferson, Texas, favoring the location of the medical department at the University of Texas at Galveston. Referred.

[In an editorial February 16, 1881, by Col. Cardwell, the Statesman opposed locating the medical branch at Galveston or anywhere away from the main university at Austin.]

March 19. The general appropriation bill was under consideration in the House.

The Senate bill proposed that the appropriation of \$14,000 for the Sam Houston normal school be given out of the available school fund. The House committee changed it to come out of the University fund.

Mr. Todd moved to strike out both and pay the ap-

appropriation out of the general revenue. He contended that it was not right or lawful to pay this item out of the fund which legally belongs to the school children.

Mr. McComb controverted the argument of Mr. Todd and held that under the constitution it was perfectly competent to make the appropriation as proposed. He made the point that the normal schools are in effect an integral part of the public free schools. Mr. Mack held, like Mr. Todd, that the constitution prohibited the appropriation out of this particular fund. Mr. Matlock contended that the legislature had no right to invade this fund for the purpose proposed by the committee. Mr. Fly and Mr. Faulk took nearly the same ground occupied by Mr. Matlock.

Mr. Todd's amendment was lost.

Mr. Hutcheson held that it was illegal to divert the school fund to this purpose, and favored sustaining the normal schools out of the general revenue. Mr. Parker, in a short argument, took the same position assumed by Mr. Hutcheson. Mr. Peacock held that the normal school, not being a part of the University, the fund of the latter could not be given for the benefit of the normal.

The amendment of the House committee to substitute "university" for "available school fund" was adopted.

March 22. Nearly the entire forenoon in the House was consumed in discussing the constitutionality of the question of whether or not the money appropriated for normal schools should come out of the available school fund, the university fund or the general revenue. Mr. Peacock moved to strike out all appropriations for normal schools, which motion, after a long discussion, was lost.

During the afternoon the Committees on Education of both houses were addressed on the subject of the university bill by Dr. Webb, of Galveston, and Col. Ashbel Smith, of Harris county. They favored the location of the medical department at some other point than the seat of government, or the University proper.

The claims of the Island City were presented as the largest city in the State, affording the most extensive

hospital practice, and the greatest variety of opportunities for experimental teaching. They did not desire the legislature to name any particular place, but simply amend so that this department may be located separately and at the best point. They received a very attentive hearing by the committee.

March 25. The bill reorganizing the directory of the A. & M. College was taken up in the House. This is a senate bill and provides for four directors to be appointed by the governor and confirmed by the Senate, and the governor to be chairman of the board. It also provides for three State students from each senatorial district, to be educated at the expense of the State.

A motion was made to indefinitely postpone the bill and a long discussion ensued in which the merits and demerits of the college were thoroughly canvassed, and in which were made prominent the objections of members to the political influence wielded by the institution. Mr. Hutcheson offered an amendment providing that the governor shall not be a member of the board. He said that under the bill, the governor could appoint a board he could control and then as chairman could be the absolute spirit of the concern. The amendment of Mr. Hutcheson providing for five directors was adopted.

Mr. Faulk offered an amendment providing for the election of the directors by joint session of the legislature, and supported his amendment in a few remarks in which he advanced some cogent reasons why the legislature should elect these directors instead of leaving their appointment to the governor. Mr. Fly opposed the election by the legislature and thought the best way to dis sever the institution from politics is to take it out of the legislative halls. He offered a substitute to allow the governor to appoint. Mr. Douglass was in favor of the legislature electing the directors. The substitute of Mr. Fly was adopted by a vote of 53 yeas to 30 nays, which leaves the appointment of the directors in the hands of the governor, but the latter will not be a member of the board. The previous

question was ordered and the bill passed to its third reading.

Mr. Scott called up the bill to establish the State University, and it was postponed till tomorrow. The speaker appointed a committee of free conference on the part of the House on the general appropriation bill.

Mr. Carleton, the member from Austin, made an earnest appeal last night in behalf of the State University. The bill comes up today but what will be done with it is extremely problematical.

March 26. The bill to establish the Texas University was taken up. The committee of the House reported adversely upon the feature of this bill, which provides that the medical department may be located at a point different from that at which the college proper is situated. This report elicited considerable discussion. Messrs. Barry, Finlay and Woods opposed and Messrs. Mack and Todd favored the report. The yeas and nays were ordered on the rejection of the committee report and resulted: yeas 42, nays 30, and the report of the committee was rejected. After several amendments the bill was passed. Under the new bill the directors of the A. & M. college will hold their office for six years.

The bill to set apart alternate sections of land surveyed in the State by and for railroads and other works of internal improvements, for the benefit of the State University and other school purposes, was taken up and read. The Senate passed a substitute for the House bill. Mr. Hutcheson moved to postpone the matter and have the substitute printed. Lost.

Mr. Chenoweth filed his reasons for voting against the amendment to the A. & M. College bill, providing that the governor appoint the directors, and putting himself on record as being opposed to placing more patronage in the hands of the Executive.

Some people can be found who will say Mr. Chenoweth has struck the key note to the situation.

April 1. The bill to adjust the State debt to the University fund was taken up and the House refused

to suspend the rules to pass it. After some minor business the House adjourned sine die.

UNIVERSITY ACT OF 1881.

Section 1. Be it enacted by the legislature of the State of Texas: That there be established in this State, at such locality as may be determined by a vote of the people, an institution of learning, which shall be called and known as the University of Texas. The medical department of the University shall be located, if so determined by a vote of the people, at a different point from the University proper, and as a branch thereof, and the question of the location of said department shall be submitted to the people and voted on separately from the propositions for the location of the main University. The nominations and elections for the location of the medical department shall be subject to the other provisions of this act, with respect to the time and manner of determining the location of the University.

Sec. 2. An election shall be held on the first Tuesday of September, 1881, for the purpose of locating the University of Texas, and the Governor is hereby authorized and instructed to issue his proclamation ordering an election on said day for said purpose, and returns of said election shall be made in the manner prescribed in the general election law.

Sec. 3. All localities put in nomination for the location of the University shall be forwarded to the Governor at least forty days anterior to the holding of said election, and the Governor shall embrace in his proclamation ordering said election, the names of said localities; provided, that any citizen may vote for any locality not named in said proclamation.

Sec. 4. The locality receiving the largest number of votes shall be declared elected, and the University shall be established at such locality; provided, that the vote cast for said locality shall amount to one-third of the votes cast; but if no place shall receive one-third of the entire vote cast, another election shall be ordered within ninety days of the first election, between the two places receiving the highest number of votes, and the

one receiving the highest number at said second election shall be declared to be selected by the people as the location of the University of Texas.

Sec. 5. The government of the University shall be vested in a board of regents, to consist of eight members selected from different portions of the State, who shall be nominated by the governor, and appointed by and with the consent of the Senate.

Sec. 6. The board of regents shall be divided into classes, numbered one, two three and four, as determined by the board at their first meeting; shall hold their office two, four, six and eight years respectively, from the time of their appointment. From and after the first of January, 1883, two members shall be appointed at each session of the legislature to supply the vacancies made by the provisions of this section, and in the manner provided for in the preceding section, who shall hold office for eight years respectively.

Sec. 7. The regents appointed pursuant to the fifth section of this act, and their successors in office, shall have the right of making and using a common seal and altering the same at pleasure.

Sec. 8. The regents shall organize by the election of a president of the board of regents, from their own number, who shall hold his office during the pleasure of the board. They shall establish the departments of a first-class university, determine the officers and professorships, appoint the professors (who shall constitute the faculty, with authority to elect their own chairman) and other officers, fix their respective salaries, and to enact such by-laws, rules and regulations as may be necessary for the successful management and government of the University; provided, that the salaries and expenses of the University shall never exceed the interest on the University fund and land sales fund, or ever become a charge on the general revenue of the State.

Sec. 9. The immediate government of the several departments shall be intrusted to their respective faculties, subject to joint supervision of the whole faculty, but the regents shall have power to regulate the courses of instruction, and prescribe, by and with the advice of

the professors, the books and authorities used in the several departments, and to confer such degrees and to grant such diplomas as are usually conferred and granted by universities.

Sec. 10. The regents shall have power to remove any professor, tutor or other officer connected with the institution, when, in their judgment, the interest of the university shall require it.

Sec. 11. The fee for admission to the university shall never exceed thirty dollars, and it shall be open to all persons in the State who may wish to avail themselves of its advantages, and to male and female on equal terms, without charge for tuition, under the regulations prescribed by the regents, and all others under such regulations as the board of regents may prescribe.

Sec. 12. The treasurer of the state shall be the treasurer of the university.

Sec. 13. It shall be the duty of the governor within thirty days after the location of the university shall have been determined to convene the board of regents at the city of Austin for the following purposes:

First—To effect the permanent organization of said board.

Second—To adopt such regulations as they may deem proper for their government.

Sec. 14. Meetings of the board shall be called in such manner and at such place as the regents may prescribe, and a majority of them so assembled shall constitute a quorum for the transaction of business, and a less number may adjourn from time to time.

Sec. 15. It shall be the duty of the board of regents, after the organization of the board of regents, to meet at the place chosen for the university for the following purposes:

First—To establish the departments of the university.

Second—To define the general plan of the university buildings.

Third—To advertise for plans and specifications of the same.

Fourth—To take such action as may be deemed

advisable for the creation of professorships and the election of professors.

Fifth—To take such other action as may be deemed necessary for perfecting the organization of the university.

Sec. 16. After the plan and specifications of the building shall have been adopted, it shall be the duty of the board of regents to advertise for bids for the construction of the same, and to proceed as soon as practicable to the erection of the same. The buildings to be substantial and handsome, but not loaded with useless and expensive ornamentation; *provided*, that the cost of the buildings shall not exceed one hundred and fifty thousand (\$150,000) dollars; *and, provided further*, that said building shall be so constructed as to admit of additions thereto, without marring the harmony of the architecture.

Sec. 17. The regents are empowered, and it shall be their duty to purchase the necessary furniture, library, apparatus, museum and other appliances; *provided*, that the amount expended for said purposes shall not exceed forty thousand dollars.

Sec. 18. The regents shall have authority to expend the interest which has heretofore accrued, and may hereafter accrue, on the permanent University fund, for the purposes herein specified, and for the maintenance of the branches of the University; and the said interest is hereby appropriated for this purpose.

Sec. 19. All expenditure shall be made by order of the board of regents, and the same shall be paid on warrants of the comptroller, based on vouchers approved by the president and countersigned by the secretary.

Sec. 20. No religious qualification shall be required for admission to any office or privilege in the University; nor shall any course of instruction of a sectarian character be taught therein.

Sec. 21. The board of regents shall report to the board of education annually, and to each regular session of the Legislature, the condition of the University, setting forth the receipts and disbursements, the number and salary of the faculty, the number of stu-

dents, classified in grades and departments, the expenses of each year, itemized, and the proceedings of the board and faculty fully stated.

Sec. 22. There shall be appointed by the Legislature, at each regular session, a board of visitors, who shall attend the annual examinations of the University and its branches, and report to the Legislature thereon.

Sec. 23. The reasonable expenses incurred by the board of regency and visitation, in the discharge of their duties, shall be paid from the available university fund.

Sec. 24. That all laws and parts of laws in conflict with this act be and the same are hereby repealed.

Approved March 30, A. D. 1881.

Takes effect ninety days after adjournment.

ACTION OF THE LEGISLATURE OF 1882.

In April, 1882, Gov. Roberts assembled the Seventeenth Legislature in extra session for various and special purposes of legislation, among them, "To take such action as may be necessary in regard to the University of Texas and its branches; in everything relating to their government, to the relations between them, to the increase and disposition of their funds; and to take such further action as may be deemed necessary and proper in any and every respect for the support and maintenance of the Prairie View Normal School and for the discharge of its debts and liabilities."

The only changes in the membership of the Senate since the regular session in 1881 were W. O. Davis, in the eleventh district, in place of J. M. Martin, deceased; J. G. McDonald, in the sixteenth district, in place of J. T. Buchanan, deceased; L. H. Brown, in the twenty-eighth district, in place of E. R. Lane, resigned; and C. A. McLane, in the twenty-ninth district, in place of S. Powers, deceased.

April 7, Gov. Robert's message was read in which, among other subjects, he alludes at length to the University, the A. and M. College, and the "Prairie View Agricultural College." In that message Gov. Roberts seemed to argue that the Prairie View school, if not in fact, was intended to be a branch of the University.

He says: "It was provided that the University of Texas should include an agricultural and mechanical department, but inasmuch as an agricultural and mechanical college had then (1875) already been established in Brazos county, it was made a branch of the University of Texas, and to remedy the difficulty of afterwards appropriating general revenue directly to complete the buildings and furnish the necessary furniture, the Legislature was required at its next session, to appropriate for those purposes an amount not exceeding \$40,000 which was done, and the appropriation was made and paid out of the general revenue of the State. The Legislature was also required, when deemed practicable, to establish and provide for the maintenance of a college or branch university, for the instruction of the colored youths of the State, to be located by a vote of the people, provided no tax shall be levied, and no money appropriated out of the general revenue, either for this purpose, or for the establishment and erection of the buildings of the University of Texas."

The governor follows up the assumption that the proposed school for colored youths was to be a branch of the University by adding "That the institution when established, as well as the Agricultural and Mechanical College, was intended to be a branch of the University of Texas, is manifested by the next and last section under the head of 'University' in the Constitution which sets apart 'for the endowment, maintenance and support of said University and its branches, 1,000,000 acres of land.'"

To this it may be answered, that if the school was necessarily intended to be a branch of the University the Constitution should have said "college or university branch," meaning college branch, or university branch, instead of using the alternative expression, "college, or branch university," which properly construed means either a college, that may not be a branch, or a university for the colored youths that would be a branch of the main university. It is most likely that what was intended, was a college with a separate board of control

and to be designated a college, like the A. and M. College, or a University for colored youths to be known as a branch of the main university, whichever might be deemed most desirable.

Alluding to the clause in the Constitution of 1876, taking the alternate sections, which had been given to the University and converting them to the free school fund, the Governor says: "Had this not been done the University would have had a most magnificent endowment of valuable lands, amounting at the time it was done, in 1876, to about 1,700,000 acres, and by the increase up to the present time of over three million acres;" and adds, "As a compensation for this, it may be inferred, the Convention set apart for the University, one million acres of land, which were not located and surveyed until four years afterwards; and being located in extreme western counties, are not proportionately near as valuable as an equal amount of lands selected in the mode provided by the act of 1858."

Considering the great discrepancy in what the Convention substituted for what was taken away from the University, it is amusing to find the Governor adding that "in this instance, it may be, the members of the Convention intended to get rid of a troublesome matter in the selection of the lands out of those that had been surveyed and were to be surveyed, rather than to inflict any detriment upon the University." But such was the history; and such history as repeated itself when some years later, the Legislature, to get rid of another troublesome university matter, declared a *loan* of \$125,000 to the University to be in full payment and satisfaction of all claims for university funds used by the State," which, with interest, amounted to over \$400,000! It was a remarkable discount of the State's obligation in either instance.

In his same message Governor Roberts made the recommendation that "by adding 2,000,000 acres of land to the 1,000,000 acres heretofore set apart for the University, and making proper arrangements for its disposition, a permanent fund might be accumulated that would ultimately be adequate to meet the expense of establishing and maintaining a first class Univer-

sity." The Governor also recommended validating the bonds for about \$134,000 issued to the University in 1867, and known as bonds of doubtful validity."

The action of the Legislature following these and other recommendations of Governor Roberts as to the University is indicated in the following references from the journals:

April 7. Senator Stubbs introduced a bill entitled Senate bill 6, "An act to adjust the State's indebtedness to the University fund, and to make an appropriation therefor." Referred to Committee on Finance.

April 8. Senator Wynne introduced a bill entitled "An act to amend section 18 of an act to establish the University of Texas." (Relating to use of available University fund.) Referred to Committee on Education.

April 10. Senator Stubbs introduced a bill (Senate bill 20) entitled "An act appropriating and setting apart 2,000,000 acres of land out of the unappropriated public domain, or out of any of the public reserves made by the act of July 14, 1879, for the benefit of the University fund, and to provide for the survey, location and sale of the same." Referred to Committee on Education.

April 11. Senate bill 6. To adjust the State's indebtedness was reported by substitute by Senator Ross, chairman of Committee on Finance.

Senator Davis, for minority of the committee, presented a dissenting report, agreeing that the claim was a just and legal debt against the State, but objecting that the substitute made no provision for payment of the principal of the bonds. The report adds: "We suggest that as the bonds have been long due, and there is sufficient money in the treasury to liquidate them, it is the duty of the Legislature to provide for the immediate payment of the principal and interest of the bonds, and not to continue to hoard money in the treasury, which yields no interest, and at the same time continues to pay interest on a past due debt which we have the means to pay off at once."

The bill was read first time with majority and mi-

nority reports. It refers to the bonds which had been known as "bonds of doubtful validity."

Senator Swain introduced a bill, Senate bill 22, entitled "An act to set aside and appropriate three million acres of the public lands of Texas for the benefit of the State University. Referred to Committee on Education.

April 13, Senate bills 20 and 22 were reported by substitute by Buchanan, chairman of Committee on Education.

Senator Davis introduced a bill, Senate bill No. 28, to repeal the "act providing for sale of a portion of the unappropriated public lands of the State of Texas and the investment of the proceeds of such sale."

Senator Ross offered the following amendment: "Strike out all in the bill appropriating any of the proceeds of the sale of the land to the University fund or diverting the same from the payment of the public debt."

Senator Harris offered a substitute for the bill and amendment.

April 14, Senate bill 6, as to the State's indebtedness to the University, was read with substitute. The bill was tabled, and, on motion of Senator Ross, the substitute was adopted.

Senator Davis offered the following amendment: "And the further sum of \$134,472.26 is hereby appropriated out of the general revenue to be applied to the payment of the principal of said lands and transferred to the University fund."

• Senator Harris offered amendment to pay \$134,472.26 out of the general revenue to the University fund, to be invested by the Governor and Treasurer in bonds of the State of Texas or United States bonds, and to form part of the permanent fund of the University, and the interest to form a part of the available fund of the University.

The substitute was accepted.

On motion of Senator Terrell, the rules were suspended to place the bill on its third reading, by a vote of 24 yeas to 3 nays, the latter being Senators Davis, Duncan and Davenport. The bill passed by the

following vote: Yeas, 21—Brown, Buchanan, Gooch, Harris, Henderson, Hightower, Homan, Lair, Lightfoot, McLane, McDonald, Moore, Patton, Ramey, Ross, Stubbs, Swain, Terrell, Tilson, Wethered, Wynne. Nays, 7—Burgess, Burton, Davenport, Davis, Duncan, Martin, Shannon.

April 15, the President laid before the Senate the substitute for Senate bills 20 and 22, "An act to set apart and appropriate 2,000,000 acres of land for the benefit of the University of Texas, out of the reservations made by the act of July 14, 1879, and to provide for the survey, location and sale of the same," being the special order of the hour.

Senator Terrell moved to suspend temporarily the special order to take up Senate bill 28, to repeal the act providing for sale of a portion of the unappropriated public lands of the State. Senator Duncan offered an amendment substantially the same as offered by Senator Ross, and it was adopted. The Harris substitute was lost, and the bill passed by a vote of 24 yeas and 2 nays—Davis and Harris.

The committee reported Senate bill 6 as properly engrossed.

Substitute for Senate bills 20 and 22 was resumed as the special order, and Senator Duncan offered a substitute setting apart and appropriating 1,000,000 acres for the benefit of the University and the public free schools, and to repeal the "act providing for the sale of a portion of the unappropriated public domain and investment of the proceeds of such sale." Several amendments were offered, and Senator Swain offered a substitute for the bill and amendments. Ruled out of order.

The Duncan substitute was lost and the bill was ordered engrossed by the following vote: Yeas 19—Brown, Buchanan, Gooch, Henderson, Hightower, Homan, Houston, Lightfoot, McLane, McDonald, Moore, Patton, Ramey, Stewart, Stubbs, Terrell, Wilson, Wethered, Wynne. Nays 9—Burgess, Burton, Davenport, Davis, Duncan, Harris, Martin, Ross, Swain.

April 19. The bill which proposed to appropriate

two million acres of land to the University was reported duly engrossed.

April 20. The bill being again under consideration Senator Duncan offered amendment as follows: "Amend by striking out two million acres for the University and insert one million acres for the University and the public free schools in equal proportions; the portion for the schools to be surveyed in alternate sections with the University sections; the expense of the survey to be paid out of the public free school and University fund in equal portions."

Senator Swain offered a substitute. Ruled out of order, pending the previous question and the main question was ordered. The Duncan amendment was lost, and the bill passed by the following vote: Yeas 18—Brown, Buchanan, Burges, Gooch, Henderson, Hightower, Lightfoot, McLane, McDonald, Moore, Patton, Ramey, Stewart, Stubbs, Terrell, Tilson, Wethered, Wynne. Nays 10—Burton, Davenport, Duncan, Harris, Houston, Lair, Martin, Ross, Shannon, Swain.

April 20. A message from the House gave notice of the passage by that body of House joint resolution No. 2, providing for holding an election for the location of a branch of the University for colored youths. The Senate adopted the resolution, adding the emergency clause by a vote of yeas 27, nays none. The House concurred in the amendment, and the resolution was finally passed by both houses.

- Senator Brown introduced "An act providing for the lease of the University lands." Referred to Committee on Education; reported favorably by the committee and passed by a vote of 23 yeas to 2 nays—Davis and Duncan.

In the House, April 10, 1882. There being under consideration a bill offered as a substitute by Mr. Findlay to "repeal all laws granting lands to any person, firm or corporation or company for the construction of railroads, canals and ditches, Mr. Todd offered amendment adding after the words "canals and ditches" in section 1, the words, "or for any other purpose except to build our State capitol, or to build and carry

on our University and its branches." Ruled out of order as not germane to the bill.

A lengthy report from Comptroller Brown was presented to the Legislature, showing all the moneys which had been appropriated or otherwise taken from the University fund, and specifying the objects to which the money so taken had been applied. Following is the communication:

OFFICE OF COMPTROLLER, Austin, April 8, 1882.

Hon. Geo. R. Reeves, Speaker of House of Representatives;

SIR—I have the honor to acknowledge the receipt of the following resolution adopted by the honorable House of Representatives on April 6, 1882:

Resolved, That the Hon. W. M. Brown, Comptroller be, and he is hereby requested to make to this body as early as practicable, a report showing all the monies which have been appropriated or otherwise taken from the University fund, and specifying the objects to which the money so taken from said fund has been applied."

In response to said resolution the following information is furnished:

The University fund has been changed in character, and disposed of in six modes.

1.—By being transferred to State revenue and State bonds issued therefor	\$134,472 26
2.—By being transferred to State revenue and no bonds issued therefor, and no return thereof made to the University fund....	11,289 02
3.—Made invalid by ordinance of the Convention of 1866	12,230 39
4.—Replaced by certificate of debt from Comptroller.....	10,300 41
5.—By payments made under particular laws directing disbursements therefrom without specific appropriation	12,621 30
6.—By payments under appropriations.....	41,636 45

The disposition of the funds by "appropriation or otherwise" according to the above modes, in detail in the order of the date of the disposition thereof, as far as practicable to present, was as follows:

By authority of an act approved January 31, 1860, there was transferred from the University fund to State revenue account, as follows:

In 5 per cent United States bonds.....	\$100,000 00
In interest on same.....	9,472 26
Total.....	\$109,472 26

This transfer was made on the books of the Comptroller on February 29, 1860.

By authority of acts approved January 29 and February 8, 1861, there was an additional transfer from the University fund to the general fund, viz.

Act of January 29, 1861.....	\$ 9,768 62
Act of February 8, 1861	25,000 00
Total.....	\$34,768 62

This transfer was made February 28, 1861.

On January 9, 1862, another act was approved by which an additional transfer was made to the general fund from the University fund, amounting to \$1520.40, making total transfers from the University fund to State revenue account, as follows:

Under act of January 31, 1860	\$109,472 26
Under act of January 29, 1861	9,768 62
Under act of February 8, 1861	25,000 00
Under act of January 9, 1862	1,520 40
Total transfers.....	\$145,761 28

The last transfer, viz., under act of January 9, 1862, consumed the entire University fund except.

Specie.....	57
Confederate notes	\$3,952 74
Warrants	4,638 97
Ten per cent interest warrants.....	12,055 80

Subsequent to that date, and up to June, 1865, there were further receipts to the University fund in warrants \$5661.44. and in interest bearing warrants \$.74.59, making total receipts in warrants \$10,300.41, and in interest bearing warrants \$12,230.39.

It appears that by an oversight the 57 cents in specie was dropped from the account. On June 8, 1865, the warrants (\$10,300.41) were canceled and a certificate of indebtedness issued to the University fund by W. L. Robards, then comptroller.

The books of this department show that on the

thirty-first day of July, 1867, under the third section of an ordinance of the convention, the above interest bearing warrants (\$12,230.39) were dropped from the books.

These warrants were paid into the University fund from 1859 to 1863, inclusive, received for sale of lands.

There was thus left to the credit of the University fund only \$10,300.41, represented by the comptroller's certificate of indebtedness. This amount is still to the credit of that account, as will be seen by reference to reports from this office.

The several acts referred to, appropriating the University fund to general purposes, provided that the amount appropriated should be returned to that account. The books of this department show that on August 1, 1867, under an act approved November 12, 1866, there was issued and placed to the credit of the University fund in five per cent State bonds, \$134,472.26.

From the foregoing it appears that the amounts borrowed from the University fund by act of January 31, 1860, \$109,472.26, and the further amount borrowed by act of February 31, 1861, \$25,000, amounting to \$134,472.26, have been returned to that fund in the form of five per cent State bonds, issued under act of November 12, 1866.

The other amounts borrowed, viz: by act of January 29, 1861, \$9,768.62, and by act of January 9, 1862, \$1,520.40, aggregating \$11,289.02, have not been returned to the University fund. It is possible, however, that the omission is due to the provisions of ordinance No. 2 of the constitutional convention of 1866, prohibiting the assumption or payment of any portion of the debt incurred from January 28, 1861, to August 5, 1865.

The foregoing matter was included in a report to his excellency the Governor, for the information of the Board of Regents of the University of Texas, made on November 14, 1881.

The following show disbursements made under particular laws directing payments without appropriations, and disbursements made in accordance with appropriations.

Expenditures against an appropriation of \$2,500 to defray the expenses of the administration in locating the University of Texas, as under joint resolution approved November 13, 1866. (See General Laws, page 272)....	\$496 00
Amounts paid for surveying University lands under section 3, act of April 8, 1874, page 73, General Laws, 1874.....	2,310 48
Amounts paid for valuing University lands under section 8, act of April 8, 1874, page 74. General Laws of 1874.....	1,494 00
Commissions paid on University lands purchased by the State under section 6, act of March 4, 1875, page 62. General Laws of 1875.....	1,000 00
Amounts paid for surveying the University lands of Texas, in accordance with title 81, chapter 1, articles 4025 to 4030, Revised Statutes....	6,640 02
Expenditures against the appropriation of \$500, under joint resolution approved February 19, 1879. (See General Laws of 1879, page 187.)	30 00
Amounts drawn against the appropriation of \$7500 each, (\$15,000) for the years ending February 29, 1880, and February 28, 1881, act of July 9, 1879, folio 45. General Laws, special session, 1879, for cabinet, library and agricultural implements, Agricultural and Mechanical College	15,000 00
Amounts expended for one additional bookkeeper at Treasury Department for years ending February 29, 1880, and February 28, 1881, under "Act for the support of the State government," approved April 23, 1879, page 154. General Laws, 1879.....	1,350 00
Also amount appropriated by act of April 1, 1881, for two additional bookkeepers, Treasury Department, for two years ending February 28, 1882 and 1883. (See General Laws 1881, page 85)	1,625 00

This was a part of the appropriation chargeable against the University and school funds jointly.

Amounts paid against the appropriation of \$6000 for the support of Prairie View Normal School, act of April 19, 1879, pages 181 and 182, General Laws of 1879, and additional appropriation of \$1600, act July 9, 1879, page 45, special session	\$7,541 87
Amount paid against the appropriation of \$6,000 for the support of Prairie View Normal School for second session, under act approved April 19, 1879, page 181	5,686 23

Amount paid against appropriation of \$6,000 for the support of Prairie View Normal School for the year ending August 31, 1882, under act of April 1, 1881, page 91.....	1,462 68
Amount expended under act of March 30, 1881, pages 77 to 82, General Laws of 1881.....	1,176 80
Amount drawn against the appropriation of \$3,500 under act approved March 30, 1881. (See General Laws, 1881, pages 76 and 77.....)	1,500 00
Amount paid directors of the Agricultural and Mechanical College out of the University fund, under act approved March 30, 1881. (See General Laws of 1881, page 76, article 3689.)	210 45
Amount drawn against the appropriation of \$7,500, under act of April 1, 1881, page 91....	6,944 67
Respectfully,	

W. M. BROWN, Comptroller.

April 12, 1882, Mr. Todd introduced a bill entitled "An act appropriating and setting apart 2,500,000 acres of land out of the unappropriated public domain, or out of any of the reserves made by the act of July 14, 1879, for the benefit of the University fund, and to provide for the location, survey and sale of the same." Read first time and referred to Committee on Public Lands and Land Office.

April 17, a message from the Senate informed the House that the Senate had by a two-thirds vote passed substitute Senate bill 6, "An act to adjust the State's indebtedness to the University fund and make appropriations therefor." Referred to Committee on Finance.

April 18, Mr. Mack, by leave, introduced a joint resolution providing for an election to be held for the location of a branch of the University for the instruction of the colored youth of the State. Read first time and referred to Committee on Educational Affairs.

April 21, substitute Senate bill Nos. 20 and 22, "An act to set apart and appropriate 2,000,000 acres of land for the benefit of the University of Texas out of the reservation made by the act of July 14, 1879, and to provide for the survey, location and sale of the same," was read first time and referred to Committee on Public Lands and Land Office.

Mr. Beck introduced a bill to be entitled "An act to amend 'an act to establish an Agricultural and Mechanical College of Texas for the colored youths, and to

make an appropriation therefor,' approved August 14, 1879." Read first time and referred to Committee on Educational Affairs.

Committee Room, Austin, April 22, 1882.

Hon. Geo. R. Reeves, Speaker of the House of Representatives:

Your Committee on Education, to whom was referred joint resolution No. 2, requiring an election to be held on the first Tuesday after the first Monday in November, 1882, for the location of a branch of the State University for the instruction of colored youth, have had the same under consideration, and instruct me to report the same back with the recommendation that it do pass.

TODD, Chairman.

Committee Room, Austin, April 22, 1882.

Hon. Geo. R. Reeves, Speaker of the House of Representatives:

Your Committee on Public Land and Land Office, to whom was referred House bill No. 55, entitled "An act appropriating and setting apart two and one-half millions acres of land out of the unappropriated public domain, or out of the reserves made by the act of July 14, 1879, for the benefit of the University fund, and to provide for the location, survey and sale of the same," have had the same under consideration, and instruct me to report the same back with the recommendation that it do not pass, because it is, in the opinion of your committee, in contravention of the requirements of the Constitution in regard to the disposition of the public lands of the State.

MATLOCK, Chairman.

Mr. Woods, by leave, introduced a bill to be entitled "An act to set apart and appropriate a portion of the public lands of the State of Texas out of the reservation of July 14, 1879, for the benefit of the University and Prairie View colored school, and to provide for the location and survey thereof, and to open the remainder of said reservation for the location of land certificates." Read first time and referred to Committee on Public Lands and Land Office.

Mr. Moursund, for the Committee on Public Lands and Land Office, submitted the following report:

Committee Room, Austin, April 25, 1882.

Hon. Geo. R. Reeves, Speaker of the House of Representatives:

Your Committee on Public Lands and Land Office, to whom was referred House bill No. 91, entitled "An act to repeal an act to provide for the sale of a portion of the unappropriated public lands of the State of Texas and the investment of the proceeds thereof, approved July 14, 1879, and an act amendatory thereof, approved March 11, 1881," have had the same under consideration, and majority of your committee instruct me to report the same back with the recommendation that it do not pass, deeming it inexpedient now to repeal the act of July 14, 1879, and amendments thereto, and permit location of land certificates on the public domain thereby reserved.

MOURSUND, for majority.

Mr. Matlock, for a minority of the Committee on Public Lands and Land Office, submitted the following report:

Committee Room, Austin, April 25, 1882.

Hon. Geo. R. Reeves, Speaker of the House of Representatives:

Sir—A minority of your Committee on Public Lands and Land Office, to whom was referred House bill No. 91, an act to be entitled "An act to repeal an act to provide for the sale of a portion of the unappropriated public lands of the State of Texas, and the investment of the proceeds of such sale, approved July 14, 1879, and the act amendatory thereto, approved March 11, 1881," dissent from the majority report, and beg leave to submit the following minority report:

The object of the bill was to open the Texas Pacific and Panhandle reservation for the location of all genuine land certificates, consisting of railroad, Confederate and veteran land scrip, and to apply the remainder of such land reservation, after satisfying all genuine certificates, one-half for the public school fund, and

the remainder to the payment of the bonded debt owed by the State to the University fund and common school fund, amounting, in the aggregate, to about the sum of \$1,000,000, principal and interest. The report of the Commissioner of the General Land Office shows that there is now certificates to the amount of 6,887,320 acres for which there are no land outside of the reservation. Within the reservation, he says, there remains 8,403,680 acres upon which the certificates could be located. The same report says: "Comparing these figures with the unlocated lands in the Texas and Pacific and Panhandle reservation, viz: 8,403,680 acres, we find that, should the Legislature deem it best to repeal the act reserving these lands, there would be a sufficient amount to satisfy all existing liabilities and leave about 1,516,360 acres for future disposition"—a sufficient amount to pay off the bonded indebtedness referred to in the bill. The question is, shall we now honor these claims with land, or leave it for future Legislatures to pay them in money. Whether or not the State is legally and equitably responsible to the holders of those certificates for their value, provided she has public domain, and refuses to allow them to be located on it, is a question about which there seems to be an honest difference of opinion. To our minds it is clear that if not paid now they will have to be honored in the future. The right to the State to reserve lands from location only exists when she leaves sufficient outside of her reserve to satisfy all of her outstanding certificates, and when she has issued more certificates than she has lands outside of her reserve, then she becomes honor bound, and equity demands that she open sufficient of her reserves to satisfy them. The Governor, in his message to this house, seems to recognize the liability of the State when he uses this language:

"If the grounds of an equitable claim upon the State is left behind to linger and yet shrink by oblivion of the facts now well known, the larger the future claims for compensation, the more dangerous to the interest of the State it will be. Texas has had a sore experience in claims of this sort in the instance of Peters' and Mercer's colony contracts, as well as of

others, of which it is not entirely clear after the lapse of nearly forty years. The alternative is presented to the legislature between the opening of the reservation to the location of the certificates except as to the claim set up for the University or the extension of the reservation, with the entailment of a lobby prosecution of the claims for all time to come, until some sort of a compromise shall have been effected, as has been the case in other claims." Entertaining the opinion which we do, we certainly think the honor and credit of the State would be best subserved by opening up the reservation to all genuine land certificates, and especially to the poor crippled confederates and their widows and the gray haired veterans who gave their blood and endangered their lives for the honor of the State. We therefore recommend that the bill do pass.

MATLOCK,
STRIBBLING.

Mr. Matlock, chairman of Committee on Public Lands and Land Office, submitted the following reports:

Committee Room, Austin, April 25, 1882.

Hon. Geo. R. Reeves, Speaker of the House of Representatives:

Your Committee on Public Lands and Land Office, to whom was referred House bill No. 90, entitled "An act to set apart and appropriate a portion of the public lands of the State of Texas out of the reservation of July 14, 1879, for the benefit of the University and Prairie View colored school, and to provide for the location and survey thereof, and to open the remainder of said reservation for the location of land certificates," have had the same under consideration, and a majority of the committee instruct me to report the same back with the recommendation that it do not pass.

MATLOCK, Chairman.

Committee Room, Austin, April 27, 1882.

Hon. Geo. R. Reeves, Speaker of the House of Representatives:

Your Committee on Finance, to whom was referred Senate bill No. 6, entitled "An act to adjust the State's indebtedness to the University fund, and make appro-

priation therefor," have had the same under consideration, and a majority instruct me to report the same back with the recommendation that it do pass.

BAKER, Chairman.

Mr. Foster, for a minority of the Committee on Finance, by leave, submitted the following report :

Committee Room, Austin, April 28, 1882.

Hon. Geo. R. Reeves, Speaker of House of Representatives:

The undersigned, minority of the committee on Finance, to whom was referred substitute Senate bill No. 6, entitled "An act to adjust the State's indebtedness to the University fund, and make an appropriation therefor, beg leave to dissent from the views of the majority of said committee, for the following reasons:

1. For the reason that the State is indebted to the common school fund in the sum of \$320,367.13, evidenced by bonds issued November 15, 1864, and the further sum of \$82,168.82, evidenced by bonds issued November 12, 1866, making a total of \$402,535.95, the interest upon which, to July 1, 1892, would amount to \$402,016.68, and we see no reason for giving preference to the University claim over the debt due the common school fund, part of which is a prior claim.

2. The Constitution of the State of Texas contemplates the establishment and maintenance of a "system" of public free schools, beginning with common schools and ending with the University, and in view of the fact that our common schools are yet in their infancy, and open on an average of only about three months of each year, on account of the lack of means with which to maintain them for a greater length of time, and as the existence of the University must, to a great extent depend upon the prosperity and perpetuity of the public free schools of the State, we believe it to be our first duty to apply whatever surplus money the State has to the payment of the interest due the common school fund on aforesaid bonds, if the interest on either claim is paid at this time.

Respectfully submitted,

L. L. FOSTER,
HARRY HAYNES,
W. A. KENDALL,

B. F. FRYMIER.
W. T. SCOTT,
C. L. WURZBACH.

April 29, Mr. Hutcheson introduced a bill to be entitled "An act to recognize the validity of, and pay the interest on, the debts due by the State of Texas to the common school and university funds." Read first time and referred to Committee on Finance."

COMMITTEE ROOM, AUSTIN, May 2, 1882.

Hon. Geo. R. Reeves, Speaker of the House of Representatives:

Your Committee on Finance, to whom was referred House bill No. 103, entitled "An act to inquire into the validity, and pay the interest on, the debts due by the State of Texas to the common school and University funds," have had the same under consideration, and instruct me to report the same back with the recommendation that it do pass.

BAKER,

Chairman.

A message was received from the Senate, informing the House that the Senate had passed Senate bill No. 51, "An act to provide for leasing the University lands."

May 4, House joint resolution No. 2, "Providing for an election to be held for the location of a branch of the University for the instruction of colored youths," was taken up, read the third time and passed.

Mr. Upton, chairman of the committee of the whole House, submitted the following report:

COMMITTEE ROOM, AUSTIN, May 4, 1882.

Hon. Geo. R. Reeves, Speaker of the House of Representatives:

Your committee of the whole House to whom was referred substitute Senate bill No. 6, entitled "An act to adjust the State's indebtedness to the University fund and make appropriations therefor," have had the same under consideration, and instruct me to report the same back with the recommendation that it be indefinitely postponed.

UPTON,

Chairman.

The question being upon the adoption of the report of the committee of the whole House, the report was adopted by the following vote:

Yeas—Anderson, Arnold, Ayers, Benavides, Brown, Burks, Cauthron, Davidson, Denman, Douglass, Faulk, Finlay, Foster, Frymier, Gaither, Granbury, Grant, Haidusek, Haynes, Hill, Johnston, Kendall, Kindred, Linn, Matthews, Nash, Oliver, Oxsheer, Parker, Patterson, Perrenot, Polley, Richarz, Riggs, Roach, Rodrigues, Scott, Smith of Hunt, Stewart of Hopkins, Stribbling, Templeton, Thompson, Upton, Woods, Wooldrige, Wurzbach—46.

Nays—Baker, Barry, Bennick, Beck, Bruce, Caven, Carleton, Chenault, Chenoweth, Daniel, Evans, Fly, Giegier, Gray, Hutcheson, Kerr, Labatt, Lewis, Mack, Matlock, McComb, Merritt, Moursund, Paddock, Peacock, Plumly, Ragsdale, Stewart of Kinney, Stringfellow, Story, Tarleton, Tompkins, Todd, Traylor, Truit—35.

Absent, not voting, Linton. Absent, on committee duty, Gibson.

We vote aye because the bill discriminates against common schools, which are equally entitled to have refunded the amount due them.

DAVIDSON,	NASH,
KENDALL,	STIRIBLING.

My reasons for voting aye are that the bill embraces large sums of money heretofore reported and admitted to be of doubtful validity, and as such demands mature and careful consideration, which the House cannot give at the present for want of time, we now being within one day of the final adjournment of this extra session of the Legislature.

W. T. SCOTT.

I vote to indefinitely postpone the bill because it proposes to discriminate in favor of the University fund and against the common school fund; because it proposes to pay a debt of \$134,472.26 due the University fund, and the House has refused to permit an amendment to the bill to pay to the school fund a debt of the same and equal validity for the sum of \$402,535.95. I will not consent to the payment of the one without the payment of the other, as I believe the interest of the public free schools of vastly more importance to the public.

FINLAY.

RIGHT TO STATE APPROPRIATIONS.

Such is the status claimed for the University, as before stated, as an argument in connection with a provision of section 48 of the third article of the Constitution of 1876, to justify appropriations from the State's general revenue for support of the University. That section provides that among other things for which the Legislature may raise taxes is the "support of public free schools, in which shall be included colleges and universities established by the State;" adding, "and the maintenance and support of the Agricultural and Mechanical College of Texas," under which provisions, even taking the two clauses together, it would seem that the Legislature should not hesitate, as it does, to provide from the general revenue for support of the University as well as the college, the latter having been mentioned by name, no doubt, simply because it happened to be in operation, which was not the case with the University, and in order to intensify by constitutional sanction the State's acceptance of the federal donation to the College, as an earnest that the State would continue to foster it, to encourage its further support by the general government. The Twenty-first Legislature was the first in its appropriations for the University to attempt any variation of the construction of section 48, which had so rigidly, if not incorrectly, and possibly wilfully, prevailed to the prejudice of the University; but that body hesitated to make an appropriation of \$25,000 to the University, to come out of general revenue, for University expenses, except indirectly, by requiring the University to substitute a like amount from the available University fund towards finishing the main University building at Austin.

This Legislature was fairly disposed to help the University with ready means to finish its main building at Austin, as advocated by Mr. Brown of Grayson; and Mr. Gresham of Galveston was anxious to have an appropriation to secure donations from Mr. Sealy and Galveston, which were conditioned that the State should contribute equally with them in the effort to put the

college into operation there at once. The object proposed seemed to justify the appropriation for the medical college as the donations were large, and the State had done nothing towards its establishment, and had taken University funds for State expenditures, so that the University was unable to provide the means for establishing the medical branch. This being the case, the propriety of the appropriation for the college, as advocated by Mr. Gresham in the finance committee of which he was chairman, was conceded; and Mr. Brown took the further position, which was sustained by the action of the Legislature in adopting the report of the committee, that the State could appropriate the money proposed, \$25,000, from the general fund, provided the University would use a like amount of its available fund for completing and furnishing the University building. Thus the Galveston donations were secured, and ready means were supplied for completing the central structure of the University.

A suggestion of Governor Roberts to the Seventeenth Legislature as to appropriations for the Normal schools amounts to an argument for supporting the University out of the general revenue, since the University is an "auxiliary" to the free schools quite as necessary for higher education and free instruction as are the normals. The argument seems to go further, or might well do so, and implies that the money may be taken indirectly from the school fund as well as from general revenue; and if indirectly, why not directly? He said:

"Upon the convening of the Seventeenth Legislature in January, 1881, my message presented my views in regard to the Prairie View School, stating in substance, that in view of its main benefits, it was simply a normal school, and therefore, it was doubtful whether it could be supported by appropriations out of the University fund; and expressed the same thing in regard to the support of the Sam Houston Normal School, out of the fund of the public free schools; and urged the propriety of supporting both of said schools by appropriations from the general revenue; and that, as they were necessary auxiliaries of our common schools, the amounts

appropriated to them be deducted from the amount of the general revenue that would otherwise be appropriated and distributed to the public free schools in the counties of the State. Notwithstanding this urgent recommendation, the Legislature persisted in retaining this school as an adjunct to the Agricultural and Mechanical College, and, consequently as a part of the University of Texas, by an appropriation act, approved April 1, 1881, in which the following is found, to wit: 'Support of Prairie View Normal Institute, for the years ending August 31, 1882, and August 31, 1883, out of the University fund, \$6,000' (each year). To this was added an appropriation for two mules, a wagon and other things of \$2,000 out of the University fund.

"It is well known that the question as to what was the proper fund out of which this appropriation was to be taken, was duly considered and settled by the Legislature. This doubt about the constitutionality of the appropriation was produced by a consideration of the conflicting conclusions to be drawn from the different laws passed, indicating its object, its organization and its status in our school system, and the object of my recommendation was to relieve it from that attitude. When, however, the Seventeenth Legislature followed the example of the previous Legislature in appropriating money for its support out of the University fund, I considered that there was enough in the history of the Legislature and the facts pertaining to the school to justify its being regarded as part of or an addition to the Agricultural and Mechanical College, as it had evidently been by both the Sixteenth and Seventeenth Legislatures, and, therefore, I did not object, in the mode pointed out by the Constitution, to the appropriation thus made."

This was peculiar legislation, like much against the University, and demonstrated a stretch of power exercised in the interest of the colored people, though with a laudable desire to establish the school for them. But it led to strange conclusions. The school could not constitute the colored branch of the University which the law requires, but it could be made a branch of the Agricultural and Mechanical College, which was

a branch of the University, and through it claim succor from the University fund, though presenting the anomaly of being succored by the University as if it were a branch of the main institution instead of being a branch of the College dependency. The effort, however, was too strained, and the Comptroller (Colonel Brown), as a bonded officer sworn to observe the organic law, regarding the proceedings as unconstitutional, refused to issue the warrants to cover the appropriations, and the State, which had already made liberal provisions for the school in other ways, returned to its method of direct appropriations for it from general revenue, and continues to sustain it quite liberally from that or other sources, including appropriations from the school fund.

The right of the Legislature to make appropriations to the University from State revenue is ably discussed in an argument understood to have been prepared for the Regents by Ex-Chief Justice Gould, and presented in their biennial report to Governor Ross in 1888. Ex-United States Senator Maxey made a similar argument in his "University address" at the following June commencement. Other arguments in opposition simply embodied such as have been noticed in this article.

Professor Roberts, who was also at one time a Chief Justice of the State, thus condenses his views of this question in a recent faculty address:

"It is to be observed that there is no express provision requiring the Legislature to appropriate money collected as revenue to the available fund to be used annually, as it was provided for the support of the public free schools. From which, as well as from other considerations, it may be presumed that the University was intended to be supported mainly if not entirely from the accruing proceeds of its permanent fund. Upon that there has been some difference of opinion. There is no question, however, that the Legislature may appropriate any amount of money or bonds to the permanent fund. The Legislature has heretofore both loaned and appropriated money from the revenue for the support of the University as it has been needed,

and unless some important action is taken to increase largely its permanent fund, that course must be continued for the annual maintenance of the University, as now organized, for an indefinite time in the future. A very general view of the present situation will illustrate this, as shown in the Regents' biennial report."

Following is the argument attributed to Judge Gould:

Section 10 of article 7 of the present constitution directs as follows: "The Legislature shall, as soon as practicable, establish, organize and provide for the maintenance, support and direction of a University of the first class, to be located," etc.

Sec. 11. "In order to enable the Legislature to perform the duties set forth in the foregoing section, it is hereby declared that all lands and other property heretofore set apart and appropriated for the establishment and maintenance of 'The University of Texas,' together with all proceeds of sales of the same heretofore made or hereafter so to be made, and all grants, donations and appropriations that may hereafter be made by the State of Texas, or from any other source, shall constitute and become a permanent University fund. And the same as realized and received into the treasury of the State, 'together with such sums belonging to the fund as may be now in the treasury,' shall be invested in bonds of the State of Texas, if the same can be obtained; if not, then in United States bonds; and the interest accruing thereon shall be subject to appropriation by the Legislature, to accomplish the purposes declared in the foregoing section," etc.

Taking this last section by itself, and giving to the words "all grants, donations and appropriations" their most comprehensive meaning, it precludes the Legislature from making any direct addition to the available fund of the University; for it devotes all future grants, etc., to the permanent fund, and, after prescribing the mode of investment, subjects only the accruing interest to legislative appropriation." The language is, "The same as realized and received into the treasury;" that is, the same grants, donations and appropriations, just declared to constitute a permanent fund, are to be

realized, converted into money, and invested as directed. It is not some of these grants, etc., but, if we take the literal meaning of the words, it is the same; that is, all of them.

If this be the correct construction, section 11 forbids any friend of the University from donating money or property to be used in the erection of any buildings for the University, or in the purchase of instruments or books. If some one should donate to the University lands, buildings and instruments for an astronomical observatory, this clause, thus literally construed, would require that all be sold, converted into money and invested in bonds. Should some citizen fit up, on premises owned by him contiguous to the University, a gymnasium, and convey it to the use of the University, it would have to be sold and follow the same course.

Even donations of books, such as have already been made and are now in the library, are also forbidden. They must be sold, the proceeds invested, and the interest may then be appropriated to buying back some of the books. Such absurd results naturally lead us to look more closely, and see if some other reasonable construction may not be adopted. (See Potter's Dwaris, page 655.) Especially should we seek light from other clauses of the constitution bearing on the same subject.

Section 48, article 3, in enumerating the purposes for which the Legislature may levy taxes and impose burdens on the people, specifies: "The support of public schools, in which shall be included colleges and universities established by the State, and the maintenance and support of the Agricultural and Mechanical College of Texas." To support the public schools and the University is to furnish the means for carrying them on. Taken literally, giving to the words "to support" their full, literal meaning, this section is express authority for making direct appropriations out of the general revenue for carrying on the University, i. e., for meeting its current expenses.

It is not important to consider whether, under some other clause of the constitution, the Legislature might not have had this power, even if section 48 had

been omitted. The clause is not in any way restrictive of the power of the Legislature, nor is it meaningless or without a purpose. That purpose is, to make it plain, to declare positively that public schools, colleges and universities established by the State, including the Agricultural and Mechanical College, might be supported—furnished with the means to be kept in operation—by taxation. This primary meaning of the word “support” is further enforced by looking at the other specifications of the purposes included in the economical administration of the government. (Article 3, section 48.) With scarce an exception, they refer to annually recurring expenses.

Taken literally we find that this clause of section 48, article 3, and section 11, article 7, are in conflict. Here, then, we have a second and very strong reason for re-examining the latter section, to see if this apparent conflict may not be reconciled. If a reasonable construction can be found giving effect to these apparently conflicting causes, it *must*, in the absence of some preferable mode of reconciling them, be adopted.

We claim that the grants, donations and appropriations intended were of a like character with those “lands and other property” then already “set apart and *appropriated* for the establishment and maintenance of the University of Texas;” that is, *those designed to add to its permanent endowment*, or more particularly to add to its interest bearing fund.

Let us look a little more closely at the meaning of the words “grants, donations and appropriations.” Each of these words is comprehensive enough to include either land, personal property or money, but it is not correct to suppose that the word appropriation by itself indicates a moneyed gift or grant any more definitely than does the word donation. In this very section 11, “land or other property” is twice spoken of as “set apart and appropriated.” It is also once used when the context shows that it meant money. Whether it means land, property or money is to be gathered from the connection in which it is used. What is there to show that it means money set apart by the Legislature to pay the annually recurring expenses of the University,

in the clause under consideration? To treat it as referring to money given under a general appropriation act for the annual support of the University, is to suppose that the convention, intending to prohibit such appropriations, instead of doing so directly, attempted to accomplish their purpose in a most indirect and awkward way. The constitution is made to say: "All appropriations of money, including those designed by the Legislature to be consumed for current expenses, shall not be so used, but shall be capitalized and invested. How easy to have said, as was said of the "establishment and erection of the buildings of the University," that to meet the current expenses of the University, "no tax shall be levied and no money appropriated out of the general revenue." How awkward to say that an appropriation intended for expenditure shall not be expended, but shall be invested. Looking, then, at the language of section 11, taken by itself, I deny that there is anything justifying the conclusion that the word appropriations was used to mean appropriations of money to be expended in defraying running expenses.

Looking at section 9, of this same article, we find it reads. "All lands heretofore granted for the benefit of the Lunatic, Blind, Deaf and Dumb and Orphan asylums, *together with such donations as may have been, or may hereafter be made to either of them*, respectively, as indicated in the several grants, are hereby set apart to provide a permanent fund for the support, maintenance and improvement of said asylums. And the Legislature may provide for the sale of the lands and investment of the proceeds in manner as provided for the sale and investment of school lands in section 4 of this article." The section is very concise; but it, if taken literally, giving to "donations" its full literal meaning, prohibits the Legislature from giving any money to the asylums to be used in meeting expenses. Every addition made by the Legislature to either fund of the asylums, the permanent fund or the fund to meet expenses, is a donation. Donations which may hereafter be made, says the constitution, shall be "set apart to provide a permanent fund for the support, maintenance

and improvement of said asylums." The Legislature, correctly holding that the constitution meant donations, *like the grants of lands just named*, intended for endowment, regularly donate or appropriate money to keep these institutions running. The asylums had been carried on for years by donations or appropriations out of the general revenue, and, although the language of the constitution, taken literally, would put an end to this practice, it is plain that the object of the section was not to do this, but simply to protect from expenditure the endowments of the asylums, including future as well as past donations and grants intended as endowments. Such, also, we claim to be the evident object of section 11, in regard to the University. Looking at article 7, as a whole, we find that it refers to the public schools, the asylums and the University, each of which had already been endowed by the State. *The permanence and security of these endowments* seems to have been one of the primary aims of the article. The "funds, lands, and other property," before set apart for public schools, the "alternate sections of land reserved by the State out of grants heretofore made, or that may hereafter be made, to railroads or other corporations," together with the proceeds of the sale of the same, are made a "*perpetual school fund*," to be invested in the way prescribed in the constitution—the interest only to be "applied annually to the support of the public free schools" (article vii, sections 2, 4 and 5.) So, as we have seen, the endowment of the asylums, as then existing, or as increased by further donations, was made a "permanent fund," to be invested in like manner. And so, in section 11, with the same leading object in view, the constitution declares that "all lands and other property heretofore set apart and appropriated" for the University, and "all grants and donations and appropriations, that may hereafter be made by the State of Texas, or from any other source, shall constitute and become a permanent University fund." This permanent fund, including proceeds of land sales and all sums then in the treasury, is to be also invested as directed for public schools, the interest to be subject to appropriation. Bearing in mind that the protection of

the endowment was a primary object in framing section 11, it follows naturally that this protection would be extended to all future additions to that endowment by grants, donations, and appropriations from the State, or from any other source. With this key to their meaning, is it not reasonably clear that in this section, as in section 9, the words used were not intended to be taken in their full literal signification?

The object being to protect the permanent fund, that protection is extended to all donations or accessions to that fund from any source. Surely the object could not have been to discourage gifts to the University by unreasonable restrictions. Yet, if the clause imposes a restriction on the Legislature, the conclusion is inevitable that it imposes the same restrictions on individuals desiring to make donations or bequests for the benefit of the University. It has already been shown that if the object of the clause was to prohibit appropriations to be expended, the method of doing so was so indirect and awkward as of itself to make the meaning obscure and doubtful. And in this connection it is quite significant to note that in section 14 of this article, when the object was to limit the legislative power to make appropriations for the University out of money raised by taxation, the prohibition is direct and positive: "No tax shall be levied and no money appropriated out of the general revenue for the establishment and erection of the buildings of the University of Texas."

Here is no ambiguity. Right here, when the constitution is specifying the purposes connected with the University for which the people shall not be taxed, we would naturally expect to find it specified that appropriations should not be made out of the general revenue to meet the current expenses of the University—if, indeed, such a restriction were intended. Here is a clause the direct object of which is to limit the purposes, the University purposes, for which the people may be taxed. The inference is strong that for all other University purposes than those here expressed, the power of the Legislature to make appropriations out of the general revenue is intended to be left untouched. Extravagant expenditure in the erection of

expensive buildings for colleges had been common, so common that it was desired to protect the people from suffering from such extravagance in the case of the University. It by no means follows that there was any design, or even disposition, to curtail further the power *expressly granted* to levy taxes to "support" the University.

Strong confirmation of these views of section 11 is to be found by tracing this section back to its origin. On page 134 of the proceedings of the Constitutional Convention is found the following: "By Mr. Davis, of Brazos, the following resolution:

"Resolved, That section —, Article —, of the constitution, shall read as follows:

"The Legislature shall, as soon as practicable, provide for the establishment of a State University, for the promotion of literature and the arts and sciences, including an agricultural and mechanical department, and the Agricultural and Mechanical College of Texas, established by an act of the Legislature, approved April 17, 1871, located in the county of Brazos, shall be and is hereby constituted a branch of the State University, for instruction in agriculture, the mechanic arts, and the natural sciences connected therewith.

"The University lands and the proceeds thereof, and all money belonging to the University fund, and all grants, donations and appropriations heretofore made under former laws of this State for the maintenance and support of a State University, and all other lands and appropriations that may hereafter be granted by the State, shall be and remain a permanent fund for the use of the State University. The interest arising from the same shall be annually appropriated for the support and benefit of said University.

"And it shall be the duty of the Legislature to take measures for the protection, improvement or other disposition of said lands, and, as soon as may be done, to provide effectual means for the permanent security and investment of the funds of said State University.

"Referred to Committee on Education."

It is apparent that the "grants, donations, and appropriations heretofore made," before the establishment

of the University, had been designed for its endowment, and that the "lands and appropriations that may hereafter be granted by the State" were of a like nature. Mr. Davis, of Brazos, was undoubtedly aiming to secure the Agricultural and Mechanical College an interest in the endowment of the University, also to protect that endowment and make it productive. There is nothing to indicate a design to curtail the power of the Legislature in making appropriations out of the general revenue for the University.

Further illustrations showing that such expressions as "all funds, lands, and other property * * that may hereafter be set apart and appropriated" were used, when the context plainly negatives any intention to include annual appropriations for current expenses, may be found on pages 243 and 137 of the proceedings of the convention.

In addition to all this, it may well be claimed that in making appropriations out of general revenue for the current expenses of the Agricultural and Mechanical College, the Legislatures have given their construction to the constitution, and that it is entitled to respect. The constitution makes the Agricultural and Mechanical college a branch of the University. Being a branch—an integral part of the University—how can the Legislature appropriate revenue to meet its current expenses if they are forbidden to do this for the University? Can any authority be found in the constitution for doing this for the Agricultural and Mechanical College, and not for the University? We do not undertake to say positively that there cannot, but what we do assert is that the burden of showing it devolves on those who claim that it exists. *Prima facie*, we have a legislative interpretation of the constitution in favor of the right to appropriate in like manner for the main University. In fact, is not an appropriation for the current expenses of the Agricultural and Mechanical College indirectly an appropriation to the main University by relieving it in so far from the burden of defraying the expenses of the Agricultural and Mechanical College out of its income?

It is claimed that enough has been said to justify

the construction of section 11 which we have suggested—even if the fact were that we were simply seeking the meaning of the section standing alone, with no outside reason or occasion pressing for or against any particular construction. If taken by itself, its most probable, most reasonable meaning, may be briefly summed up thus: “To secure a permanent, productive fund, designed to enable the Legislature to establish the State University, it is declared that its endowment as it now exists, including land and other property heretofore granted by the State, and all money arising therefrom now in the treasury, and also its endowment as it may be added to by the State, or from any other source, shall be a permanent University fund, invested only in bonds of the State or of the United States, the interest on which shall alone be expended under the direction of the Legislature for the benefit of the University.”

But it must be remembered that we are *compelled* to reconcile this section of the constitution with section 40, article 3. Taken literally the two sections are in conflict. The one plainly and incontrovertibly declares the power of the Legislature to appropriate money out of the general revenue to support the University. Unless this power is restricted by section 11, it clearly authorizes the annual expenses of the University to be provided for out of the general revenue.

To say the least of it, it is far from certain that section 11 was designed to impose any such restrictions. It admits of a reasonable construction, which harmonizes the two sections. That construction requires no *departure* from the natural or primary meaning of the language. The words are merely, from the context, interpreted as covering less ground than they sometimes do. In this way the two sections become harmonious. They *must* be harmonized. If this is not the way to make them harmonious, then we must do it by giving to the words “to support,” in section 48, article 3, a limited meaning. We must conclude that the constitution, while requiring the University to be supported by taxation—declaring that its support is one among the purposes for which taxes may be levied

—most strangely departs from the usual method of providing for government purposes, by requiring sufficient taxation to raise a fund the interest on which will support it. It is believed that no sufficient reasons can be given in support of this mode of harmonizing the constitution, and it is only deemed necessary to add that it leaves in force the absurd restrictions on gifts to the University, alluded to in the outset.

General Maxey's argument in his University address was as follows;

The Constitution of 1875 is clear and explicit as to the power and duty of the Legislature in respect to the University. The Legislature shall . . . "establish, organize and provide for the maintenance, support and direction of a University of the first class . . . and styled 'The University of Texas,' for the promotion of literature and the arts and sciences, including an agricultural and mechanical department."

"The Legislature has already complied with its constitutional duty to the extent of "establishing, organizing and providing for the direction" of the University, but the duty of providing for "the maintenance and support" has only been partially discharged. It will not do to say that the remnant of the fifty leagues given in 1839, and the \$100,000 in 1858, reduced by appropriations by the State to other objects, and the 1,000,000 acres of land given by the Constitution, made sufficient provision. The framers of the Constitution knew perfectly well of these donations and of the diversion by the State of a portion of these grants to other objects. They knew perfectly well that the munificent land grant and the \$100,000 in bonds granted by the act of 1858, supplemented by what the State had not disposed of—of the fifty leagues—would have amply endowed, supported, and maintained the University without taxation; but the Constitution took away the land grant of 1858 from the University, although not one ever found fault with that donation, and then granted 1,000,000 acres, which in view of the relative value of the lands was but a small return. Still the Constitution by no expression limits the Legislature in providing for the support and maintenance of a

University of the first class, save the general limit applicable to all objects of appropriation, and the restriction against appropriations to buildings, but does in express terms grant it the power to levy a tax for the support and maintenance of the University, as well as to make appropriations to that end out of the general revenue. The power, therefore, is ample; the necessity to support and maintain a University of the first class exists, and hence the power being ample, and the necessity existing, the duty is imperative. It is true that the Legislature, by the act of April 10, 1883, made an additional grant of 1,000,000 acres of land to the University, but it is manifest that however valuable and yielding these grants may become they do not now yield a sufficiency for necessary buildings, and for the support and maintenance of the University upon the broad scale contemplated by the constitution, and what they lack should be supplied by necessary appropriations, and the Legislature will not do its imperative constitutional duty until it makes such provision. The Legislature passed an act approved November 30, 1881, "to establish the University of Texas." Manifestly, therefore, it believed the time had come to do so. The constitution declares that the Legislature should establish and organize the University "as soon as practicable." Having done so, it is too plain for argument that the other duties to provide for the support and maintenance of the University, and such an one as the constitution specifically names—that is to say—"of the first class," imperatively follows. I believe that when the matter is understood the provision will be made.

Sec. 10, of Art. 7, of the constitution says the Legislature shall establish, organize, and provide for the maintenance, support, and direction of a University of the first class. It did not leave it to the Legislature to designate what was such an institution, but the framers of the constitution had before them such institutions as Harvard and Yale and the University of Virginia, and other first class institutions, so there could be no mistake about what they meant. That was the power conferred, and the Legislature was to execute that

power in the terms directed. But it is said that section 11 of the same article of the constitution modifies and restricts that provision. Now, where there are two or more constructions which may be placed upon the constitution, making it doubtful what was meant, and the Legislature has placed its construction upon the matter, so that an issue has gone to the courts, they have decided, without exception, that they will not interfere unless the construction placed by the law making power is manifestly against the constitution, and such is the universal rule of the courts from the Supreme Court of the United States down, and such is the principle clearly enunciated by Cooley on Constitutional Construction.

The constitution, in section 11, of the same article, sets out the various items which make up the general fund. The word appropriation occasions the difficulty by its use in one part of the constitution in one sense and in another part in a different sense.

As I construe section 11, article 7, it has reference to such appropriations, and to such only, as are designed by the Legislature to increase the permanent University fund, because it is associated in that section alone with other items of the permanent fund, whilst the use of the same word "appropriations," in the proviso to section 14, same article, has manifest reference to such appropriations as may be designated to aid in the payment of current expenses when the revenues derived from the permanent fund are not sufficient for that purpose, and this is made quite clear by the same proviso which prohibits the use of such appropriations for the erection of buildings, and this being the only exception to its use it can by a well known rule of construction be used for any other legitimate object of the University.

A careful examination of sections 10 and 11 and proviso to section 14, article 7, and section 48, article 3, will leave no doubt I think on this question. If it be, as some insist, that an appropriation can not be used for current expenses, but if made must go into the permanent fund you have this anomaly: You have the fruits and revenues of every other item in the perma-

ment fund subject to any and every legitimate use of the University, but the interest on that particular item "appropriations" can not be used for building. Again, if appropriations can not be used for current expenses, then whatever money may be appropriated for common schools or University raised under Art. 3, Sec. 48, would have to go into the permanent funds of the schools and University respectively, and the interest only could be used for current expenses. Certainly this construction will be new to the people. Suppose the University needs \$10,000 for its immediate use in its support and maintenance. You can not make the appropriation directly under the construction claimed by some of section 11, but you must appropriate say \$200,000 and put that in the general fund, and if it yields five per cent interest, use the interest, which would be \$10,000, but the \$200,000 would still be in the permanent fund after the necessity for the \$10,000 had ceased.

But look at the fourteenth section. That provides for appropriations out of general revenue, but this shall not be used for building purposes, and there is no other limitation on its use; but there is no lawyer but knows that where an exception is made it includes every other legitimate purpose. So, if you can not use an appropriation out of the general revenue for building purposes, you can use it under the proviso to section 14 for any other legitimate purpose for the University.

But the grand and governing object and mandate of the constitution is to establish and maintain "a first class University," and all other provisions of the constitution must be made to harmonize with that leading purpose. Go back to the forty-eighth section of the third article of the constitution and you will find that your Legislature has the power to tax the people for schools, "including colleges and universities." Now, if that tax must go into the permanent fund for the University, the school tax must go into the permanent school fund. You can not help the common schools or the University by appropriations except from the interest, if this strange construction be correct.

Where the Legislature has passed an act construing the constitution, the act will be followed by the courts. The Legislature did that in its appropriations for the Agricultural and Mechanical College, which is by the constitution a branch of the University, and in giving \$75,000 for the main University and \$50,000 for its medical branch at Galveston. Three times now has the Legislature put the same construction upon the constitution, allowing appropriations for the University outside the University fund. The Legislature has done this looking to its duty to establish a first class University, and recognizing the fact that such institutions have their law and medical department.

I have faith in the honesty and intelligence of the people. When they come to understand the matter, and the claims of the University expressed in every form in the declaration of independence; in the constitution of the Republic; by the Third Congress of the Republic; by the Seventh Legislature of the State, and by the constitution of 1875, ratified by the people by a great majority, and by the act establishing the University—there will be no hesitation in securing ample appropriations until the University becomes self-sustaining, as it soon will do after all necessary buildings, apparatus, library, etc., are provided and paid for. The words "maintenance" and "support," as used in the constitution, are weighty words, and the Legislature, by that instrument, is required to provide for both. The loan made by the Twentieth Legislature was of material benefit in enabling the regents to use money for the erection of the main building, as well as the building for the medical branch when established, but the duty to support and maintain is not thereby discharged. I am aware of the proviso to section 13, article 7, of the constitution, in respect to buildings. That does not change the argument. Let the Legislature, in case of need, support and maintain the University, and the regents, out of the current fund, can erect the buildings; and so manifestly thought the Legislature just adjourned, in its appropriations for the University proper and the medical branch."

STATUS AS TO THE FREE SCHOOL FUND.

By implication, the act of March 30, 1881, establishing the University, evidently aimed to preclude appropriations from the general fund for current expenses or support of the University, just as section 14, of the 7th article of the constitution of 1876, precluded "any State tax being levied or general revenue appropriated for University buildings," so that under such construction the University and all its branches, except the A. and M. College, would seem to be cut off from all State aid, so far as legislation can bind future Legislatures, unless the institution can come in for support as a public school from the free school fund, which is something that has never been attempted but, perhaps, might reasonably be contended for in its behalf. Certainly it would be no less "justified diversion" than is practiced by the Legislature upon the University fund, or more properly but a simple distribution of the school fund as a fund in common, between the University and its branches as public free schools as one class and the common schools as another class of free public schools. What boots it if the one has been given two million and the other thirty million acres, if the Legislature wants a redistribution? Why should not a State Legislature be as sovereign as a State convention since by legal fiction either represents the people? Has not the University, as well as the schools, been established by the constitution? and yet cannot the Legislature, if it chuses, refuse to make appropriations for them which would destroy them, as a member of the Legislature, and even Gov. Ireland once boldly declared the Legislature could do as to the University? Is not the Legislature then paramount when it comes to the exercise of power? and what use for conventions to "declare" to Legislatures when Legislatures can imperiously disregard their high behests and refuse to execute their mandates, no matter how solemnly they may express the will and attempt to enforce the sovereignty of "We, the people?" Is it not too true that the "law of might" in Legislatures is a "higher law than the constitution?" and that even great sticklers for strict constitutional construction "bend its straight

rules to their own crooked wills " to suit their purposes? If then a convention can convert a million acres of land, as did the State convention of 1875, from the University to the schools, why may not a legislature convert money from the school fund to the University? Not that legislatures often, but sometimes, do venture to disregard the organic law according to their inclinations of prejudice or partiality for State institutions, and especially when affecting State Universities as the history of some of them proves. And can the Supreme Court say nay, or prevent the Legislature, under any constitutional issue which can be raised, from doing as it pleases with its own institutions? And what can a legislature not do, if it can make a "*loan*" to the University serve as "full settlement" of all demands against the State for University funds, held in trust by the State, but used for the State's own governmental purposes?

The eighth section of the act of 1881, referred to, provides that "the salaries and expenses of the University shall never exceed the interest on the University fund, and land sales fund, or ever become a charge on the general revenue of the State." This provision was made in the bill on account of the political bearing of the times to avoid opposition to the University on the ground that it would largely increase the burdens of the State to make appropriations for it from the general fund. It was incorporated in a bill embodying some suggestions of Prof. O. H. Cooper, late State Superintendent of Instruction, who has recently declined a proffered chair in the University. Capt. J. C. Hutcheson, of Houston, introduced it into the Legislature, which adopted it, with some changes as to the management of the University, among them, one leaving out the provision for a University President, which office Prof. Cooper and Judge Terrell both wanted to retain, but which Judge Terrell, as a champion of the bill in the Senate, agreed to omit in deference to Captain Hutcheson, who would not support the bill with the President clause in it, or a bill which Judge Terrell had prepared, and was finally the basis of the bill adopted.

The incorporated provision, however, as above quoted from the act of 1881, seems to be violative of the spirit of the constitution referred to, but it would have been clearly so, to have enacted, if such was the aim, that the University should have no support from the State for any purpose whatever. A fair interpretation of the law on its face is, that the limitations were intended simply to prevent extravagance in the salaries of professors and other running expenses of the University, just as section 14 of article 7 of the constitution of 1876 may be interpreted to intend simply to prevent extravagance in University buildings; and in either event, not to inhibit the State from making appropriations from any fund for any purpose which it might deem proper to enlarge the scope and usefulness of the institution, for that itself would be unconstitutional as a denial of State sovereignty. As Governor Ireland argued in an address at one of the University commencements, referring to an application of the regents for control of the University lands, "the State will never consent to the divorcement of any of her institution from her own supervision." States have done so, however, in rare instances for certain considerations; but it may reasonably be argued that it will not permit any Legislature to bind it against fostering the University or the college in any way it pleases, and purblind enactments in that direction will simply be regarded as not even morally binding upon succeeding Legislatures. And just here it may be remarked that, until latterly, the State's appropriations failed to show anything like justice to the needs of the University as compared with the favors extended to the college. Each institution having its own separate endowment there is no more reason for divorcing the one than the other from the State's bounty and favoring the college to the prejudice of the University, as has sometimes been done by appropriations for the college from the University fund, when the University itself was in far more necessitous circumstances than the college.

FIRST STEPS TOWARDS A UNIVERSITY.

The first action of the State apparently looking to an early establishment of a State University was an act of

August 30, 1856, authorizing the sale of the University lands, and another of same date requiring the Governor to have the unlocated balance of them surveyed. Then followed the act of February 11, 1858, "An act to establish the University of Texas," appropriating for the purpose \$100,000 United States bonds then in the State treasury besides fifty leagues of land, and every tenth section of the lands set apart for railroads. A second attempt to start a University was made during the "reconstruction period" in 1866, when an act was passed amendatory of the act of 1858, and also a joint resolution which contemplated the establishment of "two universities," one of which was to be styled the "East Texas University." It was the constitution of 1876 which fixed the title and purposes of the existing University, declaring that "the Legislature shall as soon as practicable provide for the maintenance, support and direction of a University of the first class, to be located by a vote of the people of this State and styled "The University of Texas for the promotion of literature and the arts and sciences including an agricultural and mechanical department."

All that was done before the civil war was doubtless with an earnest intention to put the institution into operation at an early date. What was done during the war seems to have been for the purpose of raising revenue for the State for war exigencies. How the University trust was shamefully abused by subsequent legislation retarding the organization of the University has already been recited, and it remains only to show how, despite all obstacles, it finally got into operation, not under the acts of 1858 and 1866, but under the provisions of the constitution of 1876, abridging, as that did, the landed donations to the University, and the act of March 30, 1881, and subsequent legislation up to the date of its practical organization by temporary use of rooms in the capitol on September, 1883, till the University's building was sufficiently completed for occupancy January 1, 1884. The obstacles encountered up to this period and consequent retrogression in the work of getting the University into operation have already been fairly presented. Further difficulties will be

noticed as they occur in the course of the workings of the institution.

The first million acres of land donated by the State in addition to the fifty leagues set apart to the University was provided for in the constitution of 1876 long before the University was established, but the second million was not appropriated till April 10, 1883, some time after the institution was in operation; and as but little of these two million acres had been sold or leased even yet to produce a revenue, the University's available resources were mainly from interest on sales of the fifty leagues or interest on bonds bought with the proceeds, and these resources, as has been already shown, were largely appropriated in advance for the A. & M. College before the University was established.

LOCATING THE UNIVERSITY.

Austin was selected as the location for the University by a vote of the people under the act of March 30, 1881, resulting in locating the main establishment, including the academic and law departments, at Austin, and the medical branch at Galveston, where the Medical College will soon be organized; and what was designated as "College Hill," under the selection made by the Commissioners of the Republic of Texas, was naturally accepted as the site for the buildings of the parent institution. Austin was also chosen by a vote of the people of the State for the location of the branch (not yet organized) for the colored people, and the Agricultural and Mechanical College at Bryan, already in operation, under act of the Congress of the United States of July 2, 1862, for establishing agricultural colleges in the several States, and confirmed by act of the State, April 17, 1871, accepting the federal grant, was made a branch of the University by the State constitution of 1876.

Thus were the relations between the University and its several branches established.

There was considerable rivalry as to the location of the University and its medical branch, the law of 1881 requiring them to be located separately if a vote of the people so determined. The result of the election, which

was held September 6, 1881, was that 38,117 votes were cast in favor of separating their locations, and 18,363 votes were cast against that proposition.

Austin and Tyler were the principal competitors for the location of the University, Austin receiving 30,913, and Tyler 18,974 votes. For the medical branch the principal competitors were: Galveston receiving 29,741, and Houston, 12,586 votes. So Austin was selected as the site for the main University, and Galveston for the medical branch.

Among the young men of the State who worked most earnestly in this canvass were John T. Dickinson, now Secretary of the World's Exposition at Chicago, and A. P. Wooldridge, of the law firm of Fisher & Wooldridge, and now President of the City National Bank of Austin.

Hon. T. B. Wheeler, Lieutenant-Governor of Texas, and for several years Mayor of Austin; Col. Wm. P. Gaines, of the *Statesman*, Hon. John Cardwell, late Consul General to Egypt, and one of the early editors of that paper, and County Judge Fulmore, always manifested a warm interest in the University.

ADMINISTRATORS AND REGENTS.

In 1866 Governor Pease appointed, as the law then required and designated them, "Ten Administrators of the University of Texas." The appointees were Chas. S. West, Geo. B. Erath, Henry F. Gillette, Wm. G. Webb, Robt. Bechern, P. W. Kittrell, Gustave Schleicher, Wm. S. Glass, I. W. Ferris and S. A. Stockdale. The number was subsequently reduced to eight, and in 1872, Governor Davis appointed as the board: James H. Raymond, S. Mussina, C. R. Johns, M. A. Taylor, Hamilton Stuart, S. G. Newton, E. G. Benners and J. R. Morris.

In 1873 Governor Davis appointed a new board: Edward Degener, James H. Starr, A. H. Bryant, Geo. W. Smyth, James W. Talbot, John W. Harris, Hamilton Stuart and John C. Raymond.

The "Board of Eight University Regents," as the law subsequently designated them, was the one authorized by the University act of 1881, and was appointed by Gov-

ernor Roberts and confirmed by the Senate as follows: Thomas J. Devine, James W. Throckmorton, Richard B. Hubbard, Ashbel Smith, James H. Starr, A. N. Edwards, James H. Bell and Smith Ragsdale. Colonel Ashbel Smith was elected president at the first meeting of the regents held November 14, 1881 in Austin.

The gentlemen who have successively been appointed to fill vacancies in the board as they frequently occurred by declination or resignation were: J. L. Camp, T. M. Harwood, T. D. Wooten, J. M. Boroughs, Lipscomb Norvel, Wm. H. Crawford, M. L. Crawford, Jas. H. Jones, A. T. McKinney, E. J. Simkins, George F. Moore, B. E. Hadra, James B. Clark, M. W. Garnett, Geo. T. Todd, Seth Shepherd, L. C. Alexander, G. W. Brackenridge, A. J. Rose, T. C. Thompson and W. L. Prather.

Agents to locate the Agricultural and Mechanical College appointed by Governor Davis in April, 1871, were: M. D. Lorange, J. G. Bell, F. E. Grothaus, Geo. B. Slaughter, J. W. Johnston, L. Lindsay, H. T. Downard and J. M. Onins—Mr. Hamilton Stuart being soon after substituted for Mr. Johnson.

In March, 1875, Governor Coke appointed E. B. Pickett, Charles De Morse, B. F. Graves, B. F. Davis, C. S. West, F. S. Stockdale, A. J. Peeler and T. M. Scott directors of the college; and James H. Raymond, J. D. Giddings and Ashbel Smith commissioners, and G. B. Mitchell architect, for the Agricultural and Mechanical College for Colored Youths.

In March, 1879, Governor Roberts appointed E. B. Pickett, H. W. Lyday, J. K. Dixon, J. W. Durant, A. J. Peeler and George Pfeuffer as a board of directors for the Agricultural and Mechanical College at Bryan. Mr. Pfeuffer was elected president of the board.

The present directors of the college, as published in the last annual catalogue, are: Hon. A. J. Rose, president, Salado; Hon. W. R. Cavitt, Bryan; Hon. L. L. Foster, Commissioner of Insurance, Statistics, History and Agriculture, ex officio, Austin; Dr. J. D. Fields, Manor; Hon. John Adriance, Columbia.

Messrs. Spencer Ford and James H. Raymond, as a committee appointed for the purpose, visited the col-

lege and made a report of its affairs to Governor Coke. Attorney General Clark also refers to the college and University in his report to the Governor.

Attorney General Boone made a special report to Governor Hubbard as to the effect of a decision of the United States Court at Austin affecting the State's title to the University lands in McLennan county.

Dr. M. A. Taylor, who is one of the wealthiest men of Austin, in the discharge of his duties as a regent of the University, according to a published sketch of him, "visited the Agricultural and Mechanical College at Bryan, as it was then under the supervision of the University board, and carefully inspected the buildings and premises as well as the conduct of the college affairs. With a critical eye he scanned the construction of each building then being erected, and discovered that the foundations of the main college edifice were insecure. He made a report to the Governor, with suggestions which were adopted and doubtless saved the State from considerable loss on the college account. The entire plans had to be changed and new ones adopted, as suggested by Col. J. Larmour, an Austin architect.

"Again under the law, as it then existed, the University lands, in common with the free school lands, were on the market at a very low figure; and no one perhaps but a few speculators had noted the fact that, with railroad extension and consequent development of the interior and rapid settlement of the counties, lands in Texas had largely appreciated in value, and these heretofore inaccessible and comparatively worthless but now desirable lands were being bought up with avidity. Dr. Taylor, believing the State was being literally robbed, discussed the matter with Mr. Harris, of Galveston, and other prominent members of the Legislature, and succeeded in having a bill passed, which he assisted in drafting, repealing the law, and thereby saved the State large revenue accruing from the increased value of the lands."—[Daniel's Types of Successful Men of Texas, 1890.

Mr. James H. Raymond, an Austin banker, was one

of the committee who, with Dr. Taylor, investigated the college buildings at Bryan.

As to the early affairs of the college, an ugly statement is current of misappropriation of funds by some of the parties having charge of them to purchase grounds for the college; but as no investigation appears to have been made as to the facts, it is difficult to trace the history of the matter.

THE FINANCIAL OUTLOOK.

The first meeting of the University Regents was held November 16, 1881. At this meeting the State Comptroller (Mr. Brown) laid before the board a succinct statement showing that there would be in the treasury January 1, 1883, belonging to the University:

Cash funds amounting to..... \$37,024.12

State bonds substituted for United

States bonds used by the State .. 134,472.26

Referring to which and the general condition of the University's affairs the regents say: "It further appears from the comptrollers's report that there has been an important misconception as to the amount of available University funds on hand. The late comptroller (Mr. Darden) in his report for the year ending August 31, 1880, on the University fund, arrives at the conclusion and so states, that in justice there should be subject to appropriation by the Legislature as "available University fund \$185,385.27." The regents add: "From these reports it appears that instead of there being in the treasury at this time \$185,385.27 available funds of the University, there are only \$37,025.12 available and subject to the order of the board of regents, which amount includes interest up to January 1, 1883."

This was certainly not a very flattering exhibit for inaugurating "a University of the first class" especially as the \$134,472.26 consisted of bonds which had been "marked as bonds of doubtful validity," referred to by Judge Terrell. It is a singular fact too, showing how little regard had been paid to the affairs of the University, that its two funds had been kept merged so long into one account, "University fund," that it was diffi-

cult to separate them, so the regents could know what was the actual amount available for the University.

Notwithstanding all these difficulties the University was finally established by the erection of such quarters as the means at command allowed, trusting to its future resources and the liberality of the State for its maintenance.

THE MAIN BUILDING.

The University, as now constituted, occupies the center of a square of forty acres of ground in the northern portion of Austin, and near and in full view of the State's new and magnificent capitol. The site was reserved for the University, as already stated, by the Republic of Texas in 1839, when Austin was selected as the seat of government. As yet there is but one structure upon the grounds, the main University edifice, the west wing only of which was constructed when the institution was first opened to students in 1883.*

The grand central section was barely completed in September, 1889, at the opening of the past session, and no certain provision has been made for building the east wing on account of other demands on the University's resources. When this wing is finished the entire structure, with furnishing, will cost about \$200,000, and will be one of the finest and most commodious educational edifices in the South, if not anywhere in the country. The center is particularly beautiful in design, with wide corridors, high rotundas, artistic towers, and bright, airy and spacious halls. The grand auditorium and galleries will seat fully 2,000 persons. The library hall is quite large—68x100 feet—and is admirably lighted and ventilated. The building has been constructed with reference to all modern conveniences, some of which have not yet been added for want of means. The faculty and students, however, seem delighted with the spaciousness of its grand apartments,

*“The grounds are being rapidly improved and ornamented with shade trees, walks and carriage ways. One wing of the University building, containing twenty lecture-rooms, has been completed, and the regents design, as soon as practicable, to finish the main structure, and to erect such other buildings as may be necessary for the uses of the University.” (From Catalogue—Session of 1883-'84.)

and the citizens of Texas, and Austin especially, are almost as proud of their University as they are of their splendid Capitol.

In the grand central building, which has lately been nearly finished, there is an immense library room 100 by 70 feet; and directly over it, and of about the same dimensions, is the principal assembly hall for annual "commencement" exercises and other important public occasions. This hall is provided with a thousand folding chairs of opera pattern, fixed in rows of increased elevation on the inclined plane of the floor and facing the speaker's rostrum at the north end of the hall, which is entered from the great rotunda of the chief edifice. A large gallery over this entrance, the liberal space allowed for the speaker's platform and a considerable area left vacant for standing room in the rear of the seats, admit of a large addition to the audience. On either side of the platform are cosy little rooms, entered either from the main aisles or the platform, and affording full view of the speakers and the audience, intended for the special accommodation of the Governor of the State and other distinguished guests; and directly over these and easily reached are similar rooms, which will serve as commanding perches of observation for the use of the press representatives. The roof is a high arched truss, and numerous large windows extend almost to the height of the walls and some of them down to the floor, affording splendid light and ventilation. The model for the entire structure was selected during the month of July, 1882, from among eight competitive plans presented by scientific architects from different portions of the State, and is the work of F. E. Ruffini, of Austin. The west wing was built by Col. A. H. Cook, an Austin contractor. He and Mr. Ruffini both having died, the plans for the central structure were somewhat remodeled by Burt McDonald, and the section was constructed in 18-9 by his father, John McDonald, now mayor of Austin.

[From The Houston Post.]

The entire building fronts to the south with a length from east to west of 280 feet. The depth from north to

south is 149 feet without including measurement of the porticoes. The central structure is 48 feet front by 95 feet deep, and each wing is 126 feet long by 93 feet deep. The entire structure is four stories in height; the basement 12 feet high, first floor 16 feet, second 15 and third 14 feet. The basement extends 7 feet above the grade line, with an area all around so as to afford light and ventilation.

The basement is of stone and the superstructure walls are of brick. The exterior walls are hollow, to prevent dampness entering the building, and the entire exterior is faced with pressed brick. The trimmings to all the openings are of cut stone and decorative tiles. White moulded brick are also used for decorations. The cornices are of galvanized iron, and the steep parts of the roof are covered with slate, and the flat decks with tin. The several towers are of different proportions, but all imposing and artistic in design and beautifully ornamented with varicolored slate and wooden moldings. The building when completed will be practically fire proof, by means of double floors, bedded between with mortar and the use of iron lathing for all ceilings. The entrance porticoes are of stone with cast iron railings and supports, and the floors of the halls are laid with encaustic and marble tilings of varied patterns. All the halls and rooms are wainscoted to protect the plastering. Especial care has been taken to perfect the lighting in every department, and to have the light enter the lecture and recitation rooms over the student's left shoulder as he sits facing the professor, whose platform is slightly elevated against a solid blank wall unbroken by doors or windows.

Double ventilation flues are introduced for counter circulation to keep the air pure and fresh both ways, while a complete system of steam heating supplies ample warmth during the cold season. Provision is made for gas-light or electric lighting of the whole building, which is supplied with ample sewerage and water facilities, and other conveniences. An elevator for access to the higher apartments is provided for, but has not yet been introduced, but should be at once, as a special desideratum for the lady students.

The exterior appearance of the structure is very imposing. The center building is higher than the wings and is topped with a mansard roof, the highest point of which is seventy-six feet from the ground. In the front is the main entrance, portico and porte cochere, through which one enters the chief vestibule in the main tower, which has a total height of 140 feet from the basement. In the top story of this tower will be placed an immense clock faced on four sides, to be run by electricity, and sounding the hours to regulate recitations and other exercises. The wings will be similar in design, each having an entrance portico and a tower, the top of which will be 100 feet higher than the first floor of the building. The effect of the entire building when fully completed will be at once grand, and it will compose a fitting monument to remind coming posterity of the high estimate placed upon education by the founders of our great State.

The interior arrangements are almost perfect, scientifically combining convenience of communication between the different departments with economy of adjustment, and so locating the several classes that kindred branches join each other and are grouped in the different wings. The building is cut through the center from south to north by a corridor sixteen feet wide, which is crossed by another corridor fourteen feet in width, connecting the east and west entrances, thus obtaining four main entrances, while a cross hall separates the north projection from the main building, and provides two more entrances. A dressing room, where young ladies can arrange their toilets and place their cloaks and bonnets, is provided. In the center building are located the meeting room of the Board of Regents and Secretary's office, to which a fire-proof vault is attached; also, the faculty room and chairman's private office and reception parlor. In this building also are a number of professors' studies, cloak rooms, the two grand stairways to the upper floors, and rotunda galleries. The wings are similar in plan, having each an entrance hall, vestibule, cloak rooms, professors' rooms, and five large lecture rooms on each

floor. Ample provision is made for rooms for the law schools, and the chemical, physical, geological and other branches of the academic departments, and for the literary societies of the University.

There are nine lecture rooms and thirty class rooms, besides the chapel and literary society rooms—altogether fifty rooms in the entire building.

INAUGURAL EXERCISES AT AUSTIN.

The academic and law departments having been organized under authority of the regents, the University was formally opened in the main University building then still incomplete, in which the public inaugural exercises were held September 15, 1883, in presence of a large and delighted audience of citizens of Austin and other parts of the State. As on the occasion of the laying of the corner stone November 17, 1882, Hon. Ashbel Smith, first president of the regents, was the principal speaker, and was followed in addresses by Dr. Mallet, chairman of the faculty, Governor Ireland and others.

Colonel Smith reviewed the facts in the history of the University, and elaborately pictured the advantages to be derived from the establishment of so important a State institution. Prof. Mallet briefly responded on behalf of himself and associates of the faculty in accepting the duties imposed on them, and in the course of his remarks took occasion to add: "During the fifteen years I was associated with the University of Virginia, one of the oldest of the old States, no brighter minds, nor more upright characters came there than those from the new state of Texas."

Governor Ireland welcomed the faculty to their new duties, alluding to the splendid reputations they bore, and adding: "To you is intrusted the high and sacred duty of moulding the young intellects of the students of the University for the battle of life. A false step, the neglect of some small duty on your part, may prove the ruin of one of these young men or women."

His address concluded as follows: "Ladies and gentlemen, I congratulate you and all the people of the State of Texas on this consummation of the event

looked to by the Congress of the Republic of Texas forty-four years ago, and if those of our descendants who may stand here forty-four years hence, shall feel that we have done as much for them as our fathers did for us, the contemplation of such a future should cause us to rise to the full measure of our manhood in this enterprise. So far as the present executive is concerned, the University shall have his earnest support, and he here now pledges to the faculty and the board of regents and to these young ladies and gentlemen the discharge of every duty that his trust imposes upon him, hoping, at the same time, that the multitude of children in the State to whom we owe an education may have no just grounds for complaint against those who control the destinies of this institution."

A new feature was introduced in the exercises by the presentation of a bust of ex-Governor Roberts, now one of the law professors of the University, which was made and presented by Miss Elizabeth Ney, grand daughter of Marshal Ney, of France. The presentation was made on behalf of Miss Ney by Mr. Dudley G. Wooten, who beautifully alluded to it as "the work of a woman of genius and a fitting tribute for the University to preserve to perpetuate the memory of one of the greatest patriots and statesmen of Texas." It was accepted in appropriate terms on behalf of the University by Col. Seth Shepherd, one of the University regents. Governor Roberts was called on, and as he rose to respond was enthusiastically greeted. He said he could have wished to have been absent from a scene so personal to himself, but, as had always been his custom, he was at his post of duty. He desired to add that "if he could now, in the evening of his life, do anything to build up this great institution, he will have consummated the highest aspiration of his manhood."

Among those present on the platform or in the audience were Chief Justice Willie, Judges Fulmore, Rector, Walker and White, State Senator Terrell, Speaker Gibson and Representatives Smith and Johnson, Judge Turner, Judge Delaney, Hon. George T. Finlay of Galveston, Judge Glasscock of Georgetown, Drs. Denton, Rainey, Grant and Swearingen, State

Superintendent of Instruction Baker, City School Superintendent Winn, Secretary of State Baines, State Comptroller Swain, Adjutant General King, Attorney General Templeton, Hon. Swante Palm, Swedish Consul, Col. J. A. Morphis, author of History of Texas, Col. J. L. Driskill, Capt. J. Nalle, Capt. T. P. Sneed, Major J. T. Brackenridge, Gen. William Hardeman, Judge A. T. Watts, Gen. A. S. Roberts, Capt. M. D. Mather, Judge Joseph Lee, Capt. T. P. Watson, Col. Ira H. Evans, Dr. R. J. Brackenridge, Judge Wm. Bramlette, Capt. H. D. Patrick, Charles S. Morse, Clerk of the Supreme Court, Gen. Adam R. Johnson and Col. F. H. Holloway of Burnet, Capt. R. L. Hood, Judge J. H. Burts, Judge A. M. Jackson, Judge J. D. Sheeks, Dr. J. J. Tobin, Prof. J. Bickler, Capt. A. Faulkner and Judge W. P. Hamblen of Houston, Col. Charles Dillingham of New Orleans, Capt. F. B. Chilton and Col. L. A. Ellis of Richmond, Judge Gustav Cook and E. T. Dumble of Houston, Col. Henry Gillum and Mr. Frank Grice, editor of the San Antonio Express, Col. R. G. Lowe of the Galveston News, Joseph Huey of Corsicana, Col. Abner Taylor of Chicago, Judge Paul Thornton, of Missouri, Col. T. R. Bonner of Tyler, Capt. B. F. Yoakum and Col. John Withers of San Antonio, Paul Furst of Dallas, Dr. W. J. Mathis, Col. C. M. Rogers of Nueces, Capt. J. C. Pray, Major W. M. Walton, Capt. M. H. McLauren, Col. N. L. Norton, Frank Doremus of Galveston, Capt. John O. Johnson, J. H. Warmouth, J. C. Boak, J. H. Robinson, J. M. Borroughs, J. L. Hume, J. M. Day, W. H. Tobin, A. H. Graham, Ike K. Davis, Geo. Warren, R. M. Castleman, J. A. Nagle, J. S. Myrick, J. K. Dunbar, H. Hutchings, H. E. Shelley, B. S. Pillow, W. H. Huddle, C. H. Daniel, John K. Donnan, W. S. Carothers, A. F. Robins, Walter Tips, J. B. Lubbock, George L. Robertson, J. E. Wildbahn, E. J. Hamner, W. B. Dunhan, A. N. Leitnaker, J. B. Kirk, P. J. Lawless, Charles A. Newning, B. R. Warner, P. R. De Lashmut, Thomas Helm, C. H. Huppertz, C. H. Silliman, James Ford, R. J. Hill, Ike T. Pryor, F. M. Rundel, E. B. Connell, W. Y. Chinn, Dr. G. N. Beaumont, Capt. W. F. North, Col. E. Saunders, Col. R. Rutherford, Col. J. M. Swisher, Capt. A. E. Habicht, Capt. J. H. Collett, A. Deffenbaugh, Frank

Maddox, R. M. Thomson, John Wayland, A. Williams, T. W. Folts, H. L. Guenther, W. D. Moore, Em S. Hughes, George A. Burke, J. Phillips, C. E. Anderson, J. G. Palm, B. J. Kopperl, George Criser, J. B. Goff, C. G. Caldwell, Frank Brown, T. A. Thomson, George A. Wheatley, H. H. Holland, George P. Warner, Wm. Bowen, James Martin, George A. Brush, W. W. Wood, H. Hirshfield, T. J. Campbell, James P. Hart, W. B. Smith, A. L. Teagarden, H. R. Marks, G. P. James, E. E. Bane, M. W. Townsend, W. M. Milby, W. H. Firebaugh, Wm. Von Rosenberg, Revs. Goodwyn, Howard, Lee, Wright, Shapard, Smoot, Poindexter and Whipple; also Messrs. Cardwell and Gaines of the *Austin Statesman*, and a number of special correspondents, representing the *San Antonio Express*, *Houston Post*, *Galveston News*, *Fort Worth Gazette*, *Dallas Herald*, *Waco Examiner* and other State papers; also correspondents for the *New Orleans Picayune*, *New Orleans Times-Democrat*, *New Orleans States*, *St. Louis Globe-Democrat*, *St. Louis Republican*, *Chicago Times*, *Chicago Tribune*, *New York Herald*, *New York World* and other northern journals.

The faculty and regents of the University were all seated on the platform.

The writers of the State press, and local correspondents at Austin, though some of them were at times quite critical in their notices of the University, have been generally friendly to the institution, including Messrs. Wm. M. Spence, A. A. McBryde, and Thos. H. Wheless, representing at different times the *Austin Statesman*; J. E. Thornton and Wm. M. O'Leary, of the *Galveston News*, and the *Dallas News*; E. G. Senter, of the *Fort Worth Gazette*; R. M. Johnston, of the *Houston Post*; H. S. Canfield, W. A. Bowen, and J. J. Lane, of the *San Antonio Express*, and Sam H. Dixon and John T. Dickinson in occasional articles contributed by them for different papers. Some of these gentlemen, regarding the University as purely an educational rather than a political institution of the State, about which there should be no secrecy from the public as to its administration, severely censured the practice of executive sessions of the University regents.

Messrs. John Cardwell, Wm. P. Gaines, Wm. R. Hamby and Peyton Brown, as proprietors for different periods of the local paper, the *Statesman*, were noted for the influence they exerted through the paper on the University's behalf. Col. Miller, while editing the same paper, and Col. Bartow as also editor at different times of the *Statesman* and the *Waco Examiner* did the University some service through the medium of those journals. The University has also received notices, more or less favorable or critical, but most of them kindly intended, in the columns of the *Dallas Herald*, *Waco Day*, *San Antonio Times*, *San Antonio Light*, *Houston Age*, *Austin German Gazette*, *Austin Dispatch*, *Austin Globe*, *Austin Capitolian*, and numerous country papers of the State. On account of the comparative recent organization of the University it has not till late years attracted much attention from outside journals.

General Hamby, as a member of the Legislature, as well as editor of the *Statesman*, and Messrs. E. T. Moore, Felix Smith, L. B. Johnson and Emory Smith, as the local representatives of the Austin district during different sessions of the Legislature, and Hons. A. W. Terrell and George W. Glasscock, senators for the district, were all active in its interest—Mr. Emory Smith not so much, perhaps, as the others on account of his position as an executive officer of the Grangers and Farmers' Alliance, who were generally more favorably inclined to the A. and M. College than to the University.

Col. E. J. Simkins, State Senator, and Hon. George T. Todd, formerly a member of the Legislature, and both University regents, have been largely instrumental in defending the interests of the University in the halls of legislation. It was mainly through the instrumentality of Colonel Simkins, but actively aided by Senator Armistead and Representative Hudgins, that the State loan of \$125,000 to the University, which has been several times referred to in its legislative history, was secured. It is proper also to add that Representative Prendergast suggested the loan as a compromise of the conflicting demands of the college and University, which Colonel Simkins, as a senator and regent, gladly accepted in the interests of the University. This was

following a remarkable fight during a previous session of the Legislature, led by Senator Pfeuffer in committee meeting, as chairman of the committee on education, at which Judge Terrell and several members of the board of regents were present and ably contended for the rights of the University. Messrs. Shepherd, Simkins, Wooten, Todd and Harwood, and Secretary Wooldrige of the board, were there. Judge Terrell made a powerful appeal to the committee, and Regent Shepherd fairly dephlogisticated the opposition by his withering rebuke to those who aimed to foster the college at any sacrifice to the University, graphically demonstrating not only the impolicy but the cruelty and ignominy of attempting by such means as had been proposed in and out of the Legislature to build up the Agricultural and Mechanical College branch while destroying the main University structure. Chairman Pfeuffer was apparently so wilted by the force with which the opposition was downed that he made little or no reply, till, at the last day of the legislative session, when, rising to a question of privilege, he had spread upon the Senate journal the remarkable satire as to the college and University referred to in the first chapter of this book. Drs. Smith and Wooten, as successive presidents of the board of regents, were always alert and indefatigable in protecting the University's interests. All the regents, in fact, while perhaps making some mistakes as a body, have been generally efficient and personally devoted in the discharge of their official duties.

Col. Brackenridge, on account of his experience and practical suggestions as a successful business man, has been particularly serviceable as a member of the board.

Hon. R. M. Hall, State Land Commissioner, and Mr. R. Lawrence, formerly secretary of the land board, and now one of the chief clerks in the State land office, have latterly given the matter of leasing of the University lands important attention, and the prospects are that large quantities of them will be leased before the close of the present year. Quite recently application was received at the State land office to lease half a million acres of University lands, at three cents per acre, which will increase the revenues \$15,000 per annum. The

A. and M. College branch of the University is also in luck, the Governor lately having notice from Washington that \$15,000 has been set apart for that institution out of the appropriation by the last congress for the support of agricultural and mechanical colleges.*

The government of the University had been vested in a board of eight regents, appointed by the Governor from different parts of the State, to hold office for eight years, and then comprised the following members: Ashbel Smith (president) of Harris county, T. M. Harwood of Gonzales county, George T. Todd of Marion county, Thos. D. Wooten of Travis county, James B. Clark of Fannin county, Seth Shepherd of Galveston county, and B. E. Hadra of Bexar county. Owing subsequently to the death of Colonel Smith and other changes, the board as now constituted is as follows: Thomas D. Wooten (president) and Seth Shepherd (terms expiring January 1, 1892), T. C. Thompson of Galveston and Wm. L. Prather of McLennan (January, 1893), T. M. Harwood and E. J. Simkins (January, 1895), and George T. Todd and George W. Brackenridge of Bexar (January, 1897); secretary of the board, A. P. Wooldridge of Austin.

Mr. Wooldridge, who is now president of the City National Bank, was one of the most earnest and efficient workers in getting the University into operation, laboring assiduously, not only in every general effort before the people and the Legislature, but in all the details essential to success.

The members of the faculty were Profs. J. W. Mallet (chairman), Leslie Waggener, R. L. Dabney, M. W. Humphreys, William LeRoy Brown and H. Tallichet, of the academic department, and O. M. Roberts and R. S. Gould, of the law department.

* The University has strong friends in the present Legislature (the Twenty-second) in the local representatives, Senator Glascock, and Judge Terrell of the House, and other members, including Representatives N. A. Dawson of Travis, Geo. C. O'Brien of Jefferson, J. M. Melson of Hopkins, Lee Riddle of Hood, T. O. Martin of Wise, J. H. Kirkpatrick of Wise, R. B. Hood of Parker, H. G. King of Burleson, R. L. Batts of Baptrop, F. R. Graves of Kerr, the last named ten gentlemen having been either students or graduates of the University.

BRIEF SKETCH OF THE UNIVERSITY.

The following sketch, from the *Houston Post* of September 16, 1883, gives a condensed view of the history of the University up to that time:

"Scarcely had the smoke of the last great battle died away which ended the war that made Texas free, when a bill was introduced in the Texas Congress, during General Sam Houston's first term as President of the Republic, in 1838, to establish the 'Texas University.' At the succeeding session, in 1839, the bill passed and was signed by President Lamar, who had become the head of the government. This bill set apart fifty leagues, or 231,400 acres, of the public domain for the establishment of two colleges or universities, one in the east and another in the west. In the act providing for the location of the State capital, passed about the same time, it was required that University grounds should be reserved in the plan of the city. Under that act the beautiful site in Austin was reserved and stood unoccupied for forty years, held sacredly for the purpose named by the fathers. The fifty leagues of land were surveyed and set apart, and have been so applied.

Time passed on and Texas became a member of the sisterhood of states and the grand idea of a University, as conceived by the heroes of Texas independence, was still retained by the people under a different form of government. In 1858 the Legislature, seemingly abandoning the original intention of two Universities, passed a law providing for the establishment of "The University of Texas." This law gave the University \$100,000 in bonds of the United States then owned and held by the State, and also provided that one-tenth of the sections of the public lands surveyed and set apart for the common school fund, in connection with the donations for railroads should be reserved for the University the bonds named became the property of the University, but the other provisions of the law were never carried into effect.

The constitutional convention of 1875 which gave to us the organic law under which we now live, took

the matter in hand. The convention disregarded the law which had already donated the every tenth sections to the University and gave those tenth sections to the common school fund. As if in some degree to atone for this, the convention required the Legislature to have set apart 1,000,000 acres of land to the University, which requirement was carried out by the general assembly in 1879. The lands taken from the University, however, and turned over to the common schools by the predominating *ruta бага* influence in the convention, amounted to something near 1,800,000 acres. Thus it will be seen that the University was robbed of what was fairly its own, and this fact caused an effort to be made in the Legislature in 1881 to set apart to the University 2,000,000 acres out of the land reserved to pay the public debt. This effort failed, though urged very strenuously by some of the ablest men in the Seventeenth Legislature, and notwithstanding the fairness and justice of the demand. Then it was that friends of the University having met defeat in the legislative halls, because of a silly prejudice against what was termed "the rich man's school," prosecuted their appeal to a different tribunal, that of the people, and the Galveston convention of 1882 pronounced immediately in favor of a more liberal donation to the institution. The enunciation from the people's delegates and representatives was in part respected by the Eighteenth Legislature by the donation of 1,000,000 acres of land.

The history of this latter grant is well known. The bill passed the Senate after a gallant fight for it led by the distinguished senator from Travis, Hon. A. W. Terrell, and went into the House. Here the real opposition was developed, and the anti-University men began preparations for the funeral of the bill. Just at this critical moment Hon. J. E. Hill of Polk county, came to the rescue, and by an adroit movement saved the measure. He offered an amendment to the bill providing for a donation of like number of acres to the common school fund. This captured the opposition, because to vote now against the bill was to vote against

a free school appropriation. This ruse was successful, the opposition melted away sufficiently to allow the bill to pass, and at least partial restitution to the University was accomplished.

There being some question as to whether or not Austin was properly the location of the University by simple virtue of the law reserving grounds here for such location, the Seventeenth Legislature in 1881 solved the question by submitting it to a vote of the people. This election was held at the end of a most vigorous and thorough canvass on the 6th day of September, 1881. Following is the vote polled for each regularly nominated location. For the main University: Austin 30,913; Waco 9,709; Tyler 18,974; Thorp Springs 3,217; Lampasas 2,829; Williams' Ranch 21; Albany 19; Graham 208; Matagorda 17; Caddo Grove 570. For medical branch: Galveston 20,741; Houston 12,586; Austin 904; Waco 199; Tyler 4, Scattering 110. By this election Austin was selected as the location for the main University, thus perpetuating "poetic justice," as the Travis Senator once inspiringly remarked, and Galveston was given the medical branch.

The law providing for the organization of the University was passed by the Seventeenth Legislature in March 1881, and provides for the carrying on of the institution as well as rules governing the board of regents. Under this law the first board of regents was named by Governor Roberts during the summer of that year, and shortly after the members met at Houston and organized, electing Dr. Ashbel Smith of Harris county, president of the board. The personnel of the board has changed considerably since its first organization by resignations and new appointments. The duties of this board are numerous and exceedingly discretionary, but the members are always amenable to the State through the Governor, the latter having the right to change the membership whenever he thinks a change necessary. The entire direction of affairs is in the hands of the board, and the board will formulate from time to time regulations governing the faculty."

THE FIRST UNIVERSITY FACULTY.

Eight chairs have been filled as follows:

Professor J. W. Mallet, A. M., M. D., LL. D., Ph. D., F. R. S. School of Chemistry, and in charge of School of Physics. Professor Mallett was born in England, but became a citizen of this country years before the late war. During the war he held the rank of colonel in the southern army. At one time he was chemist to the State Geological Seminary of Alabama. Subsequently he was professor of chemistry in the University of Alabama and in the medical department of the University of Louisiana. For the past fifteen years he has filled the chair of chemistry in the University of Virginia. At the formal and permanent organization of the faculty he was elected chairman, which position is practically president of the University.

Professor William LeRoy Broun, A. M., LL. D., School of Mathematics. Professor Broun is a native Virginian, and received the degree of Master of Arts in the University of Virginia in 1850, and was appointed Professor of Mathematics in the University of Georgia. He served in the southern army during the war as colonel in the ordnance department. After the war he was Professor of Physics and Astronomy in the University of Georgia for nine years, and President of the State College. He received the honorary degree of LL. D. from St. John's College, Indianapolis, Ind., in 1873. He was Professor of Mathematics in the Vanderbilt University, at Nashville, for seven years, and president one year of the Agricultural and Mechanical College of Alabama.

Prof. Milton W. Humphreys, A. M., LL. D., Ph. D., School of Ancient Languages. Professor Humphreys was born in what is now West Virginia, and in 1869 received the degree of Master of Arts at the Washington and Lee University. He received the degree of Ph. D. at Leipsic University in 1874, and that of LL. D. at Vanderbilt University in 1883, this being the only purely honorary degree ever conferred by the latter university. He was formerly Assistant and then Adjunct

Professor of Ancient Languages in the Washington and Lee University, and for eight years Professor of Greek in Vanderbilt University. For 1882-3 he was President of the American Philological Association.

Prof. Leslie Waggener, A. M., LL. D., School of English Language, History and Literature. Professor Waggener is a native of the State of Kentucky, and his work as an educator has been prosecuted principally in that State. He graduated at Harvard University in 1861 with the degree of A. B. He was elected Professor of English in Bethel College, Kentucky in 1870, and President of the same institution in 1873. He received the degree of LL. D. from the Georgetown College in 1879.

Prof. R. L. Dabney, A. M., D. D., LL. D., School of Mental and Moral Philosophy and Political Science. Professor Dabney was born in Louisa county, Virginia, forty miles west of Richmond. He received the degree of Master of Arts from the University of Virginia in July, 1842. He studied divinity in the Union Theological Seminary of Virginia, and was ordained a minister in the Presbyterian church in 1847. He was a professor in the same institution (except for an intermission during the war while he was in the Southern army as chief of staff of General Stonewall Jackson) from August, 1853, to July, 1863. The degree of D. D. was conferred on him by Hampden Sydney College in 1853, and that of LL. D. by the same institution in 1872.

Prof. H. Tallichet, B. L., D. Lit., School of Modern Languages. Prof. Tallichet was born in Lyons, France. He studied in Lausanne and other schools of Switzerland, in the schools of Cruiz and Leipsic, the philology of Teutonic and Roman languages. He came to this country in 1869, and was engaged in teaching without intermission in schools at Baltimore, Wilmington, Nashville, Charleston, and for three years occupied the chair of Modern Languages in the University of the South, at Sewanee, Tenn.

LAW DEPARTMENT.

Professor Oran M. Roberts, A. M., LL. D., and Professor Robert S. Gould, A. M. The life and public

services of these gentlemen are well known to the people of Texas. They are both graduates of the University of Alabama, and each has served as Chief Justice of the Supreme Court of Texas. Professor Roberts was for four years Governor of the State.

BIG BOOST FOR THE UNIVERSITY.

As has been seen, the resources of the University were apparently so meager up to this time that but for a ruling of the then State Comptroller--Hon. William J. Swain--it was hardly possible to have commenced its operations on anything like a respectable basis. This ruling, which explained the situation, was really the key which unlocked hidden resources and bridged such a crisis in the affairs of the University as to deserve full place in its history, and is therefore given as published in the *Statesman* of September 16, 1883:

"The following ruling of the State Comptroller was a big boost for the University, the formal opening of which was inaugurated yesterday with addresses by Colonel Ashbel Smith, president of the board of regents; Professor Mallet, Governor Ireland, ex-Governor Roberts and others, in one of the large lecture rooms in the west wing of the University's new building on University Hill.

OFFICE OF COMPTROLLER,
Austin, September 15, 1883. }

Hon. Ashbel Smith, President of Board of Regents, University of Texas:

"SIR: I have the honor to acknowledge receipt of your communication requesting that the board of regents be informed what the ruling of this department is in reference to the disposition to be made of the interest arising from the notes held by the University fund given for the purchase of University lands.

"I beg to say in reply, that after an examination of the laws bearing on this subject I consider the interest on the land notes held by the University fund as property, and part of the available University fund, and as such is included in the appropriation made in section 18 of 'an act to establish the University,' approved March 3, 1881.

"On examining the records of this department, I find that Hon. S. H. Darden, former comptroller, in his report to the Governor for the year ending August 31, 1880, took this view of the subject. On March 30 following Mr. Darden's report, the act, 'establishing the University of Texas,' was passed, which act in section 18 declares: 'The salaries and expenses of the University shall never exceed the interest on the University fund and land sales fund.' The notes for the purchase of land being a part of the land sales fund, the interest on the notes would be included in the amount permitted by the statute above quoted to be expended for the salaries and expenses of the University.

"Under this view of the question the available University fund on September 1, 1883, was as follows:

Funds on hand in cash.....	\$61,315 86
Funds on hand in bonds, subject to be converted into cash.....	8,308 37
Interest on land notes which properly belong to available University fund.....	86,950 94
Total available September 1, 1883.....	<u>\$156,575 17</u>

"The permanent University fund September 1883, was as follows:

Five per cent bonds.....	\$69,091 65
Six per cent bonds.....	175,500 00
Seven per cent bonds.....	114,000 00
Total bonds.....	<u>\$358,591 65</u>
Cash on hand September 1, 1883.....	\$253,823 52
Less amount interest on land notes due the available University fund.....	86,950 94
	<u>166,872 58</u>
Total permanent University fund September 1, 1883....	<u>\$525,464 23</u>

"The permanent fund now yields an annual increase to the available fund as follows:

Interest on bonds.....	\$21,964 58
Interest on land notes, former years say.....	7,000 00
Total.....	<u>\$28,964 58</u>

"To the above should be added interest derived from investment of the \$162,872.58 cash on hand.

"It will be borne in mind that the amount to be derived from interest on land notes is not a fixed sum,

as the interest on these notes is being annually diminished by partial payment of the principal.

“Respectfully,

WM. J. SWAIN,
Comptroller.”

CORRELATION WITH THE PUBLIC SCHOOLS.

The object of the University as part of the public educational system of the State is to complete the work that is begun in the public schools by providing in a thorough manner for liberal education in literature, science and the arts, and for professional study of law and medicine. The University, through the aid received from the State, offers all its facilities for higher education to persons of either sex, qualified for admission, without charge for tuition; and in order to perfect a close and vital connection with the public schools of the State it has been provided that a diploma from approved schools shall admit a student without examination to all the privileges of the University. This approval is on recommendation of committees of the University professors who visit the schools for the purpose of personal investigation and report their observations to the faculty for its action.

METHODS OF INSTRUCTION.

The system of instruction adopted by the University is a combination of what is known as the elective system and what is known as the class system. The four classes, freshmen, sophomore, junior and senior, are retained and serve to articulate the four years devoted to the completion of any full course in the academic department. There are three courses of study—in arts, letters and sciences; and four special courses, all in sciences, and giving prominence respectively to engineering, to chemistry, to geology and to physics, and leading to the same degree as the general course in science. There are also post graduate courses. The degrees conferred are such as are usually given by American universities, with the exception that no honor degrees are conferred.

The organization into distinct schools gives to stu-

dents properly qualified the privilege of electing those departments of study to which they may be led by special tastes or proposed vocations in life; but this privilege of election, except in a modified form under the advice of the faculty, is not granted to students under eighteen years of age, nor to those who are candidates for degrees. Applicants for admission as students must be not less than sixteen years of age.

CO-EDUCATION IN THE UNIVERSITY.

"The statute under which the University was organized states that 'it shall be open to all persons in the State who may wish to avail themselves of its advantages, and to male and female on equal terms.' In compliance with the spirit of this act of the Legislature, no provision for the instruction of young women apart from young men has been made. The two sexes are taught the same subjects by the same professors at the same time, and the requirements for admission are equally rigorous. In no respects are the young women considered as constituting a separate department of the University, or a separable annex whose connection is fortuitous and experimental, and no distinction between them and the young men, either in discipline or instruction, is recognized. No restrictions other than those prevailing in good society are placed upon the sexes with reference to their association with each other. It is proper, however, to call attention to the fact that this institution is not a 'young ladies' seminary.' Only earnest young women, imbued with a desire to profit by the methods of advanced education, by such instruction as was but recently confined to young men, should attend an institution where co-education is practiced as it is in this and other higher institutions of learning, open to males and females on equal terms.

"But young women, in order to have equal advantages with young men, are entitled to the presence in the faculty of a lady of culture and refinement, whose example and precept will exercise the same restraining influence that young women in good society are sub-

jected to. They are also entitled to have some one in the faculty who can see that they have proper boarding houses and comfortable rooms; who can visit them when they are sick and see that they are properly nursed and cared for. The regents, in the appointment of Mrs. Kirby as lady assistant, have fully met all such reasonable expectations. Young women can enter this University with the full assurance that they will receive the benefits of its instruction on equal terms with young men."—*University Catalogue*.

In this connection it may be added that the system of co education has worked so well that there is evidently no occasion for establishing a separate ladies' annex, as at some other institutions of learning; except, perhaps, for quarters to provide for special instruction of young ladies in art and music as important society accomplishments.

ANNUAL ATTENDANCE OF STUDENTS.

Catalogues published every year near the close of each session show the following attendance of students from the beginning:

Sessions	Academic.	Law Dept.	Total.
1883-84	166	52	218
1884-85	151	55	206
• 1885-86	138	60	198
1886-87	170	73	243
1887-88	176	73	249
1888-89	187	91	278
1889-90	230	78	308

The attendance of young lady students so far has varied from about forty to about sixty each session.

The catalogues of the Agricultural and Mechanical College or branch at Bryan are published, independently of, and separate from those of the University, so that its attendance is not included in the above list. The fourteenth annual catalogue of the college for last session, 1889-90, shows an attendance of two hundred and seventy-nine students. The attendance of the twelfth session was two hundred and fourteen, and the thirteenth session two hundred and seven. There will be a much larger attendance than ever this session.

FACULTIES AND OFFICERS.

Changes in the faculties and officers are sufficiently indicated in the catalogues of the several sessions of the University as follows:

THE FIRST FACULTY—SESSION OF 1883-'84.

CHAIRMAN, PROF. J. W. MALLET,
Literary and Scientific Schools.

PROF. J. W. MALLET, A. M., M. D., LL. D., PH. D., F. R. S.,
School of Chemistry and in charge of School of Physics.

PROF. WM. LEROY BROWN, A. M., LL. D.,
School of Mathematics.

PROF. MILTON W. HUMPHREYS, A. M., LL. D., PH. D.,
School of Ancient Languages.

PROF. LESLIE WAGGENER, A. M., LL. D.,
School of English Language, History and Literature.

PROF. R. L. DABNEY, A. M., D. D., LL. D.,
School of Mental and Moral Philosophy and Political Science.

PROF. H. TALICHET, B. L., D. LIT.,
School of Modern Languages.

LAW DEPARTMENT.

PROF. O. M. ROBERTS, A. M., LL. D.,
PROF. ROBERT S. GOULD, A. M.

ASSISTANT TEACHERS.

J. J. ATKINSON, B. A.,
Assistant in Chemistry.

E. E. BRAMLETTE, B. A.,
Assistant in Mathematics and Ancient Languages.

J. R. RAY,
Assistant in Modern Languages.

I. H. BRYANT,
Assistant in English and History.

SMITH RAGSDALE, A. M.,
Proctor.

SESSION OF 1884-'85.

OFFICERS OF INSTRUCTION AND GOVERNMENT.

LESLIE WAGGENER, M. A., LL. D.,

Chairman of the Faculty and Professor of English Language, History and Literature.

MILTON W. HUMPHREYS, M. A., LL. D., PH. D.,

Professor of Ancient Languages.

H. TALLICHET, B. L., D. LIT.,

Professor of Modern Languages.

ROBERT L. DABNEY, M. A., D. D., LL. D.,

Professor of Mental and Moral Philosophy and Political Science.

GEORGE BRUCE HALSTED, M. A., PH. D.,

Professor of Pure and Applied Mathematics.

JAMES F. HARRISON, M. D.,

Associate Professor of Physics.

EDGAR EVERHART, M. A., PH. D.,

Associate Professor of Chemistry.

O. M. ROBERTS, M. A., LL. D.,

Professor of Law.

ROBERT S. GOULD, M. A.,

Professor of Law.

ALVIN V. LANE, C. E., PH. D.,

Assistant Instructor in Mathematics and Graphics.

EDGAR E. BRAMLETTE, B. A.,

Assistant Instructor in Ancient Languages.

GEO. P. GARRISON, L. A. (Edin),

Assistant Instructor in English Literature and History.

CHARLES F. GOMPERTZ,

Assistant Instructor in Modern Languages.

MRS. H. M. KIRBY,

Lady Assistant.

SMITH RAGSDALE, M. A.,

Proctor and Librarian.

SESSION OF 1885-'86.

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Professor of Law.

ROBERT S. GOULD, M. A.,

Professor of Law.

EDGAR EVERHART, M. A., PH. D.,

Associate Professor of Chemistry.

ALEXANDER MACFARLANE, M. A., D. SC.,

Associate Professor of Physics.

ALVIN V. LANE, C. E., PH. D.,

Associate Professor of Mathematics.

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Instructor in Modern Languages.

MRS. H. M. KIRBY,

Lady Assistant.

JAMES B. CLARK, B. A.,

Proctor and Librarian.

SESSION OF 1886 '87.

OFFICERS OF INSTRUCTION AND GOVERNMENT.

Chairman of the Faculty and Professor of English Language, History and Literature,

LESLIE WAGGENER, M. A., LL. D.
B. A., Harvard, '61.

Professor of Ancient Languages,
MILTON W. HUMPHREYS, LL. D.
M. A., Washington and Lee; Ph. D., Leipzig.

Professor of Modern Languages,
H. TALLICHET.
B. L. D. Lit., Lausanne.

Prof. of Mental and Moral Philosophy and Political Science,
ROBERT L. DABNEY, D. D., LL. D.
M. A., University of Virginia.

Professor of Pure and Applied Mathematics,
GEORGE BRUCE HALSTED.
M. A., Princeton; Ph. D., Johns Hopkins University.

Professor of Law,
O. M. ROBERTS, LL. D.
M. A., University of Alabama.

Professor of Law,
ROBERT S. GOULD, LL. D.
M. A., University of Alabama.

Associate Professor of Chemistry,
EDGAR EVERHART.
M. A., Racine; Ph. D., Freiburg.

Associate Professor of Physics,
ALEXANDER MACFARLANE.
M. A., D. Sc., University of Edinburgh; F. R. S. E.

Associate Professor of Mathematics,
ALVIN V. LANE.
C. E., Ph. D., Vanderbilt University.

Instructor in English Literature and History,
GEO. P. GARRISON.
L. A., University of Edinburgh.

Instructor in Modern Languages,
CARLO VENEZIANI.
Ph. D., Heidelberg.

Instructor in Ancient Languages,
JOHN P. NELSON.
University of Virginia.

Lady Assistant,
MRS. H. M. KIRBY.

Proctor and Librarian,
JAMES B. CLARK.
B. A., Harvard.

SESSION OF 1887-'88.

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B. L., Lausanne.

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Ph. D., Heidelberg.

Instructor in Latin,

JOHN P. NELSON.

University of Virginia.

Instructor in Greek,

S. D. JONES.

A. M., Ph. D., Vanderbilt University.

Lady Assistant,

MRS. H. M. KIRBY.

Proctor and Librarian,

JAMES B. CLARK.

B. A., Harvard.

SESSION OF 1888-'89.

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J. R. SITLINGTON STERRETT.

Ph. D., Munich.

Assistant Professor of History,

GEORGE P. GARRISON.

L. A., University of Edinburgh.

Assistant Professor of Applied Mathematics,

T. U. TAYLOR.

C. E., University of Virginia.

Assistant Professor of Geology,

ROBERT T. HILL.

B. S., Cornell University.

Assistant Professor of Latin,

W. WINSTON FONTAINE, M. A.

University of Virginia.

Instructor in French,

J. MAGNENAT.

Instructor in German,

A. C. JESSEN.

University of Bonn.

Lady Assistant,

MRS. H. M. KIRBY.

Proctor and Librarian,

JAMES B. CLARK.

B. A., Harvard.

SESSION OF 1889-'90.

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M. A., D. Sc., Edinburgh; F. R. S. E.

Associate Professor of Geology,

FREDERIC W. SIMONDS.

M. Sc., Cornell; Ph. D., Syracuse.

Assistant Professor of History,

GEORGE P. GARRISON.

L. A., University of Edinburgh.

Assistant Professor of Applied Mathematics,

T. U. TAYLOR.

C. E., University of Virginia.

Assistant Professor of Latin,

THOS. FLIZHUGH.

M. A., University of Virginia.

Instructor in French,

J. MAGNENAT.

Instructor in German,

JESSIE ANDREWS.

B. Lit., University of Texas.

Lady Assistant,

MRS. H. M. KIRBY.

Professor and Librarian,

JAMES B. CLARK.

B. A., Harvard.

SESSION OF 1890-'91.

FACULTY AND OFFICERS.

Chairman of the Faculty and Professor of Rhetoric and
English Literature,

LESLIE WAGGENER, M. A., LL. D.

B. A., Harvard, '61.

Professor of Modern Languages,

H. TALLICHET, D. Lit.

B. L., Lausanne.

Professor of Law,

O. M. ROBERTS, LL. D.

M. A., University of Alabama.

Professor of Law,

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M. A., University of Alabama.

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M. A., University of Virginia.

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GEORGE BRUCE HALSTED.

M. A., Princeton; P. D., Johns Hopkins.

Professor of Chemistry,

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M. A., Raci. c.; Ph. D., Freiburg.

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Ph. D., Munich.

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Assistant Professor of History,

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L. A., University of Edinburgh.

Assistant Professor of Applied Mathematics,

T. U. TAYLOR.

C. E., University of Virginia.

Assistant Professor of Latin, THOS. FITZHUGH.

M. A., University of Virginia.

Assistant Prof. of English, MORGAN CALLAWAY, JR.

Ph. D., Johns Hopkins.

Assistant Professor of Mental and Moral Philosophy,

WALTER LEFEVRE.

Ph. D., Heidelberg.

Instructor in French, J. MAGNENAT.

Instructor in German, JESSIE ANDREWS.

B. Lit., University of Texas.

Lady Assistant, MRS. H. M. KIRBY.

Proctor and Librarian, JAMES B. CLARK.

B. A., Harvard.

UNIVERSITY SUMMER NORMAL.

"In May, 1887, Prof. O. H. Cooper, Superintendent of Public Instruction, suggested to the faculty of the University the idea of having a summer normal in Austin, and that the use of the University building, apparatus, laboratory and library be offered for the purposes of such a school; and that such University professors as might remain in Austin during the summer should take part in giving instruction and in the conduct and management of the school. The subject was brought regularly before the faculty, and a resolution was adopted endorsing the scheme, subject to approval of the board of regents. * * * It is hoped that the experiment will be so successful that the summer normal will become a permanent institution, and that in this way the University shall be able to do a work only second in importance to the work done in its regular classes.

LESLIE WAGGENER,

(Chairman of University Faculty.)"

The normal was organized and held its sessions from August 5 to August 31, in the University building, and was well attended and did excellent work. By authority of the State Board of Education it was empowered to examine applicants for summer normal certificates, valid throughout the State for two years, and granted a number of such certificates.

In his last report of August, 1890, just before retiring from office as State Superintendent of Instruction, Prof. Cooper says: "It is suggested that a chair of pedagogy in our State University would be useful to the profession of teaching in the State. We should have some institution in the State which would prepare high school teachers and scholarly county and city superintendents. Most State universities realize the value of pedagogical training and make provision for it. Such a chair well filled would attract many students of the highest character to our University."

To this it may be added, however, that the University graduates should and as a rule do have all the qualifications necessary for accomplished and successful teachers. One of them, Mr. J. C. Nagle, has been elected,

just after graduating in the University, to the chair of Civil Engineering and Physics in the A. & M. College.

THE BRACKENRIDGE DONATIONS.

About a year ago, a prominent gentleman of this State donated \$10,000 to build a student's mess hall for the University. The donation was made with the understanding that the donor's name was not to be made public till he consented, but somehow, probably on account of his well known means and character as a public spirited citizen, and his friendly interest in the University as a member of the board of regents, the idea obtained that Mr. George W. Brackenridge, president of the San Antonio National Bank, was the party who had so generously made the gift which will serve as a more lasting monument to his name than a monolith. The building which the donor has consented to be known as "Brackenridge Hall" has been in course of construction some time but through his extended liberality is to be larger and finer than first contemplated, costing somewhere between \$15,000 and \$18,000. The new hall is to be for the use of male students; but it is believed that another similar hall for young lady students of the University is contemplated by Mr. Brackenridge's sister, Miss Eleanor Brackenridge, of San Antonio.

The hall has recently been opened to students, and is in charge of Mr. H. B. Beck, as steward. It is a handsome brick structure, close by the main University building, three stories high, exclusive of the basement. An important feature is, that under Mr. Brackenridge's provisions in making the donation of the building to the University, the rents are to constitute a scholarship fund for the benefit of students needing such assistance. Before a room is assigned each student is required to sign the "rules," which binds him not to play cards, or use liquor of any kind or indulge in any practice calculated to disturb the young men in their studies.

The building is heated throughout by the Gurney hot water system. The rooms are in suits, supplied with hot and cold water, each room having a large bay

window, and roomy wardrobe, and is supplied with gas fixtures and well furnished. The restaurant is mainly intended for the convenience of the occupants of the hall, but other students and officers of the University can avail themselves of its benefits. Before it was opened Mr. Billeisen, an experienced restaurateur of Austin, had made estimates of the actual expense of provisions for the University club as follows :

BREAKFAST BILL OF FARE.

	Cents.
Oatmeal, per dish.....	1
Blush, per dish.....	1
Gri s, per dish.....	1
Hominy, per dish.....	1
Fried liver, per dish.....	1
Breakfast bacon, per dish.....	3
Ham, per dish.....	3
Plate steak, per dish ..	2½
Sirloin steak, per dish.....	4
Mutton chops, per dish.....	2
Veal cutlet, per dish.....	5
Brains with two eggs, per dish.....	4½
Buckwheat cakes, per plate.....	3
Wheat cakes, per plate.....	2
Corn cakes, per plate.....	2
Bread and butter, per one.....	2
Coffee or tea, per cup.....	2

BILL OF FARE FOR DINNER.

Soup, per bowl.....	2
Slice of roast beef and Irish potatoes.....	4
Slice of roast mutton and one vegetable.....	4
Piece of roast veal and salad.....	5
Piece of roast chicken or turkey.....	7
Dish of calf tongue, sauce and potatoes.....	4½
Slice of pie.....	3
Dish of pudding.....	2½
Dish of cake sliced.....	3
Cup of coffee.....	2

BILL OF FARE FOR SUPPER.

Slice of cold ham.....	3
Slice of cold beef, mutton or veal.....	2½
Slice of corned beef.....	1½

HOT MEATS.

Plain steak, per dish.....	2½
Breakfast bacon, per dish.....	3
Coffee or tea, per cup.....	2

The restaurant bill of fare is made out for each day, and from this the student selects what he desires at the different prices. About three cents for each meal is to be added for waiter service.

In connection with Mr. Brackenridge's donations of the building and its complete outfit it may be added that he is a modest, talented gentleman, of fine literary tastes and habits. At college he had a fancy for the abstruse sciences, and evinced especial aptitude in the study of chemistry, physics and civil engineering. Withal he has acquired a large fortune, and fully appreciating the benefits resulting from higher education, is disposed to be still further liberal to the University. He consented for his name to be known with reference to his present donations only because it might prompt others to make similar gifts. His appointment as one of the regents was remarkable as well as fortunate for the institution, he being a Republican in politics, while Governor Ireland, who appointed him, is a Democrat. It would doubtless be well for the material interests of the country if such political liberality were more generally exercised, so that gentlemen of all parties may be influenced to take personal concern in such great enterprises.

In accepting the appointment Mr. Brackenridge characteristically wrote to Governor Ireland, saying: "It is the only office in your gift, or in the gift of the people of the State, that I would accept."

APPEAL FROM THE COLLEGE AND UNIVERSITY.

The directors of the college and regents of the University have joined in an appeal to the Twenty-second Legislature for appropriations as follows:

For the University:

To complete central building.....	\$5,000
To heat the entire building with steam.....	10,000
To erect a chemical laboratory.....	40,000
To erect the east wing.....	75,000
To supplement available fund for current expenses.....	30,000
To equip the Medical College.....	34,000
To pay current expenses of Medical College for two years.	66,000
Total.....	<u>\$260,000</u>

For the A. & M. College:

For additional barracks.....	\$50,000
For chemical laboratory buildings and equipment.....	12,000
For one carpenter shop.....	10,000
For tools for mechanical engineering department.....	2,000
For veterinary hospital building and equipments.....	10,000
For establishing and enlarging experiment stations.....	5,000

For artesian water and bath houses.....	10,000
For horticultural hot house and equipments.....	1,500
For enlarging mess hall.....	15,000
For electric light plant.....	600
For professors' residences.....	7,500
For drill hall and gymnasium.....	5,000
Total.....	\$128,600

The appeal concludes: "In presenting these statements and in asking for these appropriations, the regents of the University and the directors of the Agricultural and Mechanical College are actuated solely by a sense of their duty to the State. They have no object in view except to promote the interest of the two great literary institutions placed in their charge, and therefore they have not hesitated to set forth clearly and plainly an estimate of the least amounts needed to carry them on in keeping with the dignity and honor of the great State of Texas."

ISSUE AS TO REGENTS' TERM OF OFFICE.

At the beginning of the session of the Twenty-first Legislature, Governor Ross, in violation of the precedent which had been followed for the past nine years by all his predecessors, and in face of the statutes on the subject requiring appointment of but two of the University regents at each successive term of the Legislature, sent in appointments for an entire board of eight members for confirmation by the Senate; thus officially asserting, as far as his action would go, that the terms of the members of the board had expired, but for what purpose unless to change the precedent does not appear, as he made no change in the existing membership of the board. In the minds of the friends of the University, however, his action threatened a grave crisis in its history, as had he succeeded in the effort, it would have changed the precedent, and served to place the board of regents in the hands of every incoming Governor for appointment or dismissal, and thereby have made the board a mere political office. The Senate fully appreciating the danger likely to result from the Governor's action, respectfully returned the appointments, stating that in their judgment there were but two vacancies in the board. It was not till near the

close of the session that the Governor sent in the names of two appointees to fill the vacancies, which were duly confirmed, and thus what was considered a prospectively dangerous blow at the University was averted. One of the evils apprehended was that on account of the uncertain tenure of partisan boards and consequent uncertainty of any faculty being retained, the professors would feel too insecure to risk the chances of retention and would resign for better assured positions. It might naturally be expected also that the University would be liable to rather frequent political changes in its general management, and it is believed that but for the fact of the regents having one of their members, Senator Simkins, to represent the University in the Legislature and explain its interests in the matter, the result might have been otherwise. The incident too is regarded as an illustration of the propriety of removing such institutions from political control of their practical operations.

The latest appointments to fill vacancies in the board of regents was the nomination by Governor Hogg of Hon. F. W. Ball of Fort Worth, in place of Hon. Seth Shepherd of Dallas, whose term expired January 1, 1891, and the re-appointment of Dr. T. D. Wooten of Austin, whose term also expired January 1, 1891. Dr. Wooten continues president of the board, which is now constituted as follows:

T. C. THOMPSON, Galveston, Galveston county.	} Term expires
WM. L. PRATHER, Waco, McLennan county.	} Jan. 1, 1893.
T. M. HARWOOD, Gonzales, Gonzales county.	} Term expires
E. J. SIMKINS, Corsicana, Navarro county.	} Jan. 1, 1895.
GEO. T. TODD, Jefferson, Marion county.	} Term expires
G. W. BRACKENRIDGE, San Antonio, Bexar county.	} Jan. 1, 1897.
F. W. BALL, Fort Worth, Tarrant county.	} Term expires
THOS. D. WOOTEN, Austin, Travis county.	} Jan. 1, 1899.
Secretary, A. P. WOOLDRIDGE, Austin, Texas.	

As to Governor Ross, it is due him to state that he claims that his intentions have always been friendly to the institution. As to Governor Hogg, his expressions since his election as State executive have been decidedly friendly, and the new Legislature is also believed to be kindly disposed to the University.

CHAPTER IV.

CONCLUSIONS.

From the history presented it will be seen that the University, founded by the Republic of Texas and preserved and endowed by the State, though still in its infancy and as near a "first class university" perhaps as could be expected under the circumstances, deserves well of the State. It opens the way to liberal education and to special training in certain lines to the aspiring youth of Texas, and in so far as it holds up the true standard of education, tends to raise the general grade mark of intellectual culture. Still, it must be admitted that, owing to the inavailability of most of its largely planned endowment, it is far from being a perfect paradigm in all the essentials of university education. It takes time for university development, even under the most favorable conditions. As Dr. Mallet has expressed it, "a university, instead of being built up at once by any masterly methods of construction, has to take root and branch out and grow, like a tree, to its proper proportions; and to flourish, must have a fruitful field, light, the heat of the sun, and the refreshing showers of generous influences."

Under proper management, the University of Texas should long ago have had an annual income of a hundred thousand dollars; and it has been difficult to understand the action of the State in the control of its endowment and tardiness in putting the institution into operation. The new States which have come into the Union, proposing to establish universities, may learn a lesson to advantage from the history of the University of Texas and the universities of Arkansas, Maryland, Virginia, Michigan, Indiana, Vermont, Wisconsin and others, which had to contend with State legislation and other political influences.

A grave defect in the law organizing the Texas University, doubtless patterning after the University of Virginia, was the absence of any provision for an

executive head, instead of having the management, as now conducted, divided between the State, the regents and the faculty. No university of the highest order has been built up in America which was not largely the work of the inspiring and guiding mind of some established chief. The University of Virginia itself is hardly an exception, for it was moulded and fashioned by Jefferson, who though not the ostensible was the real head of the institution, at one time rector; and that university is the only one of the highest class in this country which did not have in its early years an actual ruling spirit as the chancellor or president. "Never," says Dr. Herbert Adams, "was an institution more completely the materialization of one man's thought than is the University of Virginia. Not only did he evolve the entire system of education there introduced, but he actually devised every feature of construction and administration. He drew plans, made estimates and contracts, busied himself about bricks and mortar, and superintended the whole process of building."

As has been seen, one of the greatest drawbacks to the progress of the University of Texas has been not so much hostility to "higher education" in the abstract, as partiality instead for the common schools as a more popular system of education with the masses, naturally keeping up indifference to the establishment of a University and serving as a pretext for the State's reckless dissipation of the University's resources and careless management of its finances. This much may be fairly concluded, that but for the wise liberality displayed in the State's landed endowment at a time when, as suggested by President Lamar, the domain was ample for the purpose, Texas probably would not even yet have a State University, unless the federal donation for establishing agricultural colleges, operating as it has in other States, had induced this State to convert the college at Bryan into a State University, with the department required by the federal statute to entitle it to national support.

What the University most needs now, is to give it a tendency to the more practical in education, not in

such lines as are well enough supplied by what are commonly called "business or commercial colleges," and the usual denominational institutions, but in those departments of learning, such as architecture, engineering and technical work, to develop inventive genius, which require more difficult and expensive means of instruction such as superior university appliances and resources only can afford; in a word, a technological department, or science school of the highest character, like those at some of the Northern universities. This might be best accomplished, perhaps, if all interests could be reconciled to the change, by removing the Agricultural and Mechanical College from Bryan, and enlarging its scope and outfit at Austin. That would unquestionably give a more popular aspect to the University, and is what is most needed to meet public expectation.

In course of time the University's departments might be developed for special research in more abstruse investigations, as at the Johns Hopkins University, but the aim should be to establish every department undertaken on a firm basis, rather than permit a multiplicity of imperfectly developed branches which will require constant pruning to prevent caquidity, and will only add to the expense without contributing to the reputation of the University. Separate buildings for a chemical laboratory, geological cabinet, astronomical observatory, and engineering school, a gymnasium and ladies arts department are contemplated, as the income of the University permits. These and endowments of special professorships might well be the work of individual munificence, as at other institutions in the country, to perpetuate the names and liberality of the benefactors. Such benisons will doubtless come in time from some of the rich men of the country; but it is to be hoped they will come soon, while they are so much needed, and while the donors live, as did Governors Brown, Gilmer and Milledge of Georgia, and Peabody, Tulane, Vanderbilt, and others, to perfect and enjoy their bequests. The Georgia Governors' donations were all to the Georgia University, that of Governor Brown being \$50,000. Mr. Tulane's gifts in money, and real estate in New Orleans, to the University of

Louisiana, producing an annual revenue of \$70,000, were so highly appreciated as a public benefaction that the Legislature was induced to honor the donor by re-chartering it as "The Tulane University of Louisiana."

All are familiar with the princely beneficence of George Peabody in establishing the Peabody educational fund, and the more recent magnificent endowments by the Vanderbilts of over one million dollars in money, by Johns Hopkins of over three millions in money and property, and Leland Sanford's consecration of \$20,000,000 of his estate for the establishment, in their respective family names, of the "Vanderbilt," the "Johns Hopkins," and the "Leland Sanford, Jr.," Universities, not to mention older as well as some recent remarkable donations from Prof. Loomis, Alvin Clark and others, and Mr. John R. Rockfeller's reported intention to devote \$20,000,000 for the establishment of a University and science schools in Chicago, New York or Philadelphia, and his gift already of one million dollars for the new universities at Chicago and New York. Peabody wisely put his benefactions into operation so as at once to realize their beneficent results. So did Commodore Vanderbilt, Paul Tulane, George Seney, and many others whose liberality has been extended since the war to colleges and universities where they are so much needed in the South; not always bearing the donor's name, and some of them to State universities, and in the case of Senator Sanford, while he is still living, and devoting his great administrative energies as well as most of his massive fortune to perfecting, in his son's name, one of the grandest monuments that wealth can devise.

While such gifts of educated men, and their efforts to afford the highest educational advantages to others, are marks of their appreciation of such advantages, they are a still higher argument, when coming from the uneducated, of their own need of better education, and the higher the better. Their success is affected by educational conditions will always be more or less circumscribed, no matter what may be their acquisitions in more mercurial channels. Such men, if honest with themselves, must admit their general need of a broader

education for their easier if not greater success, even in money making, while at the same time better promoting their social standing and other interests, which they would have enjoyed, and some of them quite as much as their business pursuits. Hence their magnificent gratuities in behalf of schools, colleges, and more especially universities.

As for the University of Texas, its endowment will some day produce a large available fund, but just now such donations as have been bestowed upon the University of Virginia would be godsend—such as Mr. Corcoran's \$100,000 to endow professorships, Mr. Brooks' \$68,000 to establish the Brooks museum of natural history, and Mr. McCormick's \$68,000 for the McCormick astronomical observatory, and other gifts, altogether aggregating over \$600,000, since the war!

It is interesting to notice in this connection that recent publications of the department at Washington are attracting more general attention from the press and the public as to the subject of university education.

"Many inquiries," says Commissioner Dawson, "are coming from statesmen and educators for information on the subject of higher education. There is a desire on the part of the scholars in each State to see what has been done in other States, that mistakes may be avoided by experience and the best plans and models followed. There is likewise a general desire for a closer study of school management and school systems, based on wider information and more careful comparison of methods and results. The financial and legislative history of education furnishes a foundation for such study and comparison. The successful management of the means of education is of prime importance, without which there is danger of complete failure. The control of the budget is the control of the State; this principle applies to institutions as well as to nations. State education has taken a strong hold, particularly in the South and West; but the problems pertaining to its management, its functions and its support have not yet been fully solved."

The natural preference of most of the States in their early organization for the common schools, and their

persistent disposition to make them suffice, independently of universities, for the educational wants of the people, so far as such wants were objects for governmental concern, was one of the great difficulties with which Jefferson had to contend in establishing the University of Virginia; though even he, in all his fifty years struggles in its behalf, never advocated university education at the expense of the common schools.

The higher the sources of knowledge certainly the better must be the information. The colleges do not seek instructors from the academies, or the universities look to the colleges for professors: nor, on the other hand, are the public school authorities content to place their schools solely in charge of teachers whose education has been limited to the common schools or even the city high schools, excellent as are some of the latter. How illogical, then, the assumption that a State should confine its appropriations to the simple support of public schools, leaving the establishment of higher institutions of learning to individual enterprise!

As to university education itself, Jefferson's views are quite suggestive to this day. "Some good men, and even men of respectable information," he said, "consider the learned sciences as useless acquirements; some think they do not better the condition of men, and others that education, like private and individual concerns, should be left to private individual effort, not reflecting that an establishment, embracing all the sciences which may be useful and even necessary in the various avocations of life, with the buildings and apparatus belonging to each, is far beyond the reach of individual means, and must either derive existence from public patronage or not at all. This would leave us, then, without those callings which depend on education, or send us to other countries to seek the instruction required."

Since Jefferson thus wrote, private endowments of universities, such as Leland Sanford's, have, in a few rare instances, exceeded the possible conceptions of Jefferson as to what private enterprise might do in that direction. The exceptions of sufficiently large private donations, however, to found anything like complete

universities, have been so rare as to hardly affect the force of Jefferson's argument that government aid is requisite for founding and the proper equipment and maintenance of universities of proper resources. The time may come too, as Dr. Adams has suggested, when Washington's idea of a National University, to be par excellence, by reason of national support, the university surpassing all others in the whole country, will result in something more than the suggestions of the naval and military academies and the agricultural colleges established by federal provision. A grand civic institution of the broadest and most comprehensive scope for instruction in government policy, and of the highest culture in the arts and sciences, may yet be established at the national capital, or some important educational center of the country, excelling even the universities of Berlin and Oxford. As "one sun is better than a thousand stars" one grand national educational establishment may be better than a hundred State universities, or one grandly endowed State institution of learning better than scores of so-called universities, dependent upon individual munificence; and hence the propriety of private bequests and donations to well established State institutions, as not so likely to prove ephemeral while adding all the more to their advantages and completeness.

Just as the common schools are necessary for the education of certain classes of the people, universities are equally necessary to afford the higher education which other classes have the right to expect of the State, and neither the State nor the general government should rest satisfied with furnishing to its citizens anything short of the finest educational institutions that can be devised to promote the general welfare, which can only be done by subserving the interests of all conditions of society and establishing universities to meet special necessities of certain classes as well as common schools for the more general requirements of the masses. And this for the reason that as the taxes, not alone of the rich, but the rich as well as the poor, support the common schools for the common advantage, though mainly for the poor, so a share of the

same taxes should be made to support universities, even if they in turn do happen to benefit the rich more than the poor, since the government is constituted for the common interests of all concerned in its administration. But while this is true as to the policy of the government as to educational institutions, all that private enterprise can do in the same direction is equally commendable, whether by donations for the specific purposes stated or general endowments, which would perpetuate the names and liberality of the donors far more enduringly than monumental shafts or grandly arched mausoleums. What more noble and enduring than Louisiana's tribute to Paul Tulane, in incorporating his name with the University of Louisiana?

Private donations to the University of Virginia, even since the war, aggregate as stated over \$600,000; to the University of Texas, only some books for the library, except the Brackenridge donations, and indirectly the donation of Mr. Sealy of Galveston, resulting from a provision in his will of a general character, but specially exercised by the executor of his estate, his brother Mr. George Sealy, towards putting the medical department into operation in that city. Donations of books probably amount to \$2,000 or \$3,000 including some rare and very costly works presented by Mr. John H. Inman of New York.

It is to be hoped that other generous benefactors will remember the University of Texas, as Brackenridge and Sealy have done, and as Tulane remembered the University of Louisiana, and Brooks, McCormick, Vanderbilt and others have remembered the University of Virginia, all with grand donations. May private munificence in the same way further co-operate with this State in making the Texas University such a success that not only will the people be proud of their State University, but her honors will be appreciated as highly by the youth of Texas as the diplomas of the finest educational institutions in America or Europe.

As to government aid to higher education: "How many of our people," says a distinguished university president, Dr. Adams, "know that one of the minor universities of Great Britain has recently completed a

collegiate building at a cost of \$2,430,000, not to speak of the \$4,000,000 that were put into the Polytechnicum at Charlottenburg. * * * And of those who suppose that needless sums are expended by Harvard, Yale and Cornell, how many know that the little kingdom of Saxony, only half as large as Vermont, gives from its public treasury annually \$400,000 to its university, although the institution itself has great wealth and the professors are supported mainly by the fees of students."

Further along Dr. Adams argues that, comparatively speaking, there is not a single fully endowed institution of learning in America, and that as long as this is the case American students will continue to flock to European universities. "Let us remember," he adds, "that the richest of our educational institutions has an income not much larger than that of a single one of the twenty-four colleges constituting the University of Oxford."

Like the regents of Dartmouth College, when pleading against the proposition to change the charter and name of that college and make it "The University of New Hampshire," the regents of the Texas University have fully realized, as every one connected with it should realize with them, that the University does not belong to them; that it is in no sense an independent entity as long as it is not a chartered institution, and that they "have no interest, other than that of the State, in its affairs and management." As argued in the Twentieth Legislature. "the State can tear down its walls and utterly destroy it;" but while this is true, and so many legislators seem to relish the fact, and while consequently there is no use to recalcitrate by kicking against the State's sovereignty and prerogatives in any matter except where there is interference with vested individual rights, such as are protected by the federal constitution, the regents have the duty imposed upon them, as agents for the people and for the State, entrusted with the care of a State University, to plead for it and protest against usurpation and injustice by the State or any other power; and especially to protest against what has been so conveniently denominated

"justified diversion" of its funds by the Legislature, when there was really no war exigency or other great emergency to justify any diversion whatever, and when at the time, no matter how justified any diversion of the funds may have been, the State was amply able and should have restored them to the University. This is no impudent demand, but their duty as representatives of a State University, both to the State and to the University.

And since the Legislature seems unwilling to "divorce the University" from the State by chartering it and giving the regents entire control of its resources, and it is thus subject to the whimsical tergiversation of succeeding Legislatures, let the sovereignty of this great State be invoked through the graciousness of its law making power, the Legislature, to take it as her own State institution more fully to heart as a matter of State pride, and provide by act, or for a constitutional amendment if necessary, to make its endowment more actively available by issuing for its benefit, say three or four, or even five million dollars, five per cent twenty to fifty years bonds, and holding the University lands in trust for the interest and sinking fund, and eventual payment of the bonds by means of the increased value of the lands. Thus secured by the pledge of two million acres of land, leased say at three cents an acre and producing an annual revenue of \$50,000, no better security could be offered for investment, the State would not have to pay one cent for the bonds or make further appropriations for the University or any of its branches, the institution will be at once provided with available funds ample for the establishment of all departments necessary to make it "a first class University;" and in the meantime its lands will have been reserved from sale till their four fold enhancement in value will make them the source of large available revenues and a most magnificent fund for the University's permanent endowment. Thus, without a dollar's actual outlay, the University may at once be constituted the crowning glory of the State's grand educational system; and certainly, since knowledge is one of the greatest powers

of government, the State could not pledge its faith to a nobler enterprise for its own educational interests and political welfare.

UNIVERSITY ADDRESSES.

The magic effects of munificence to universities are beautifully pictured in an allusion to Cornell University by Col. Wm. Preston Johnston, President of Tulane University, in an elegant address at the Texas University commencement in June, 1884:

"My visit to Cornell was a lesson in educational science. On a lofty bench or plateau, scooped from the rugged mountain side and overlooking Lake Cayuga, is planted this now famous institution of learning. At the foot of the mountain nestles Ithaca, a beautiful city of some twenty thousand inhabitants. Above it, like the noble forehead to some fair statue, rises the University with its grand assemblage of stately and beautiful halls, museums and laboratories, its groups of mansions and cottages, the homes of the professors; its spacious campus and wild background of woodland. The art gallery stands poised on a bold promontory, with a long vista of lake and sedgy shore and embattled hills, against which the hosts of heaven rolled with alternate sunburst and lowering front—a fairy scene worthy the wand of an arch magician. Indeed, this art gallery, the bequest of a sainted lady, seemed, in its architectural suggestions of beauty, beneficence and bliss, like a dream of happiness embodied in monumental stone. This marvelous city of the sciences had been summoned into being within fifteen years. I have described it as worthy the wand of an arch magician; that magician was enlightened enthusiasm, and the wand with which the miracle was wrought was the golden rod of wealth, with its mighty powers of transmutation."

In that address Col. Johnston also made some excellent suggestions from his own experience and observations as to university management. He favored large boards of regents, as being less liable to form "cliques," or get under outside "ring influences;" and argued that the less a legislature or State executive has to do with

the management of a university, the better for both, citing as a special instance of the great detriment to State institutions from such interference, the readjustment acts of the "repudiators" of Virginia, affecting the Virginia University and other State institutions. In his opinion, "the best mode to secure a wise and consistent policy, was by charter in the form and nature of a contract, so as to remove discussion of university affairs from political to judicial tribunals." The faculty he regarded as the "soul of a university," and to secure success it should be composed of men who are "intellectual athletes" and "moral heroes." "A large and well selected library, properly used and in the hands of a trained and enthusiastic librarian, was growing to be one of the most effective agencies in university education;" and, as the speaker expressed it, "the claims of Professor Biblos and Assistant Professor Libellus, who fill the chair commonly known as the library, should not be neglected. In their recitation room, the library, and its quiet precincts, books are wonderful teachers, bringing the patient and inquiring student face to face with the mighty thinkers of the world."—[Address published by the University.]

[Address of Dr. Waggener.]

The following admirable and suggestive lecture by Dr. Leslie Waggener, chairman of the faculty, on the subject of "The University and the State," delivered by him January 28, 1857, gives an interesting review of the institution as compared with other universities:

"When Leyden was invested by the Spaniards in 1574, William, the Silent, relieved the city, as all the world knows, by cutting the dikes and flooding Holland with the waters of the North sea. The grateful habitants thereupon resolved to commemorate in some suitable way their deliverance, and to perpetuate in the memory of mankind the heroism of those, of their fellow citizens, who had fallen victims to famine, pestilence and the sword of the enemy. Their country was still cursed with a desolating war; their fields, wave-swept and flooded, were yet unfit for tillage; their grass grown streets, and their broken, unused canals were in

no plight for commerce, and the air of their city where so many thousand had died of the plague, was still infected with the germs of disease. Under these circumstances it seems strange that they should have had any thought other than the thought of how they might the sooner recover their former prosperity. Yet the fact remains that in less than three months after the siege was raised steps were taken, not to repair the waste of flood and fire and disease, but to erect a memorial worthy of their heroic defense, and of their remarkable escape. And what was decided upon as the memorial? Nothing less than a university! Those men of Leyden, gaunt from famine, poverty-stricken and battle-scarred, resolved that a university should be forthwith endorsed and established within their walls. Thus was founded, after the darkest hour of the city's history, the University of Leyden. Three hundred years have gone by since the siege of this ancient city, yet to-day its chief ornament and glory is its university. Eminent men from all the countries of Europe have been connected with it, and the world of letters is indebted to the self-denying wisdom of the burghers of Leyden for the labors, among others, of Saliger, Arminius, Grotius and Descartes.

"In view of the fact that civic vanity must have suggested some triumphal arch, or monumental pile; and in consideration of the fact that fire, famine and slaughter had devoured their wealth, the endowment of a university by the citizens of Leyden for the benefit of posterity, was simply sublime. I can recall, in the history of the world, but one incident similar in its unaffected grandeur, and that incident occurred in the early history of Texas. And in acknowledgement of what we to-day owe those, the benefits of whose labor we enjoy, let me relate the incident here: An act was passed in January, 1839, by the Congress of the Republic of Texas, setting aside fifty leagues of land for university education. This was while the Republic was still an experiment; while the route of Santa Ana and General Cos through the Southern part of the State could still be traced by the litter of their camps; while the war with Mexico was still smoldering, and the war with

the Indians was kindling the entire frontier into flames. Texas was without an army and without a navy; there was no money and less credit; nevertheless, time was found by the Congress of '39 to discuss, and men were present to mature a plan by which provision was made for liberal learning. In some respects this is a more remarkable fact than the action of the citizens of Leyden. Holland, in the Sixteenth century was an old country; Texas in the beginning of the Nineteenth was a new country. In the former there were already populous cities, numerous canals, and a soil, every acre of which was tillable and tilled. In the latter there were no cities, no means of internal communication, and the virgin soil, whether covered with forest or carpeted with grass, was just beginning to be cleared by the axe and broken with the plow. It seems that in view of these facts the endowment of a university might have been delayed at least until the young republic was fairly on its feet; until at least the physical obstacles in the way of gaining livelihoods and of building homes might be removed. But the founders of the republic thought otherwise. They did not take into consideration even the fact that students of sufficient advancement to enter a university were not in Texas. From the time of its inception in the act of '39 to the time of its establishment by the act of '81, the University was the object of repeated legislation, and of anxious, watchful solicitude. Its endowment was largely increased by the act of '58, and its establishment as a "University of the first class," was directed by the constitution of '76. The preamble to the act of '58, written by Lewis T. Wigfall, then a State Senator, afterwards United States Senator, declares that "from the earliest times it has been the cherished design of the people of the Republic and of the State of Texas that there shall be established within her limits an institution of learning for the instruction of the youths of the land, in the higher branches of learning and in the liberal arts and sciences, and to be so endowed, supported and maintained as to place within the reach of our people, whether rich or

poor, the opportunity of conferring upon the sons of the State a thorough education."

"I take it the sentiment of this preamble was the sentiment of the friends of learning in the constitutional convention of '75, when it was enacted and made a part of the fundamental law of the land that this University should be a "University of the first class." I take it the sentiment of this preamble is the sentiment to-day of the friends of learning and knowledge and culture, who are scattered all over this great State. We all believe and maintain "that a State University should be dedicated and consecrated to the cause of higher learning, and should be so endowed, supported and maintained as to place within the reach of our people, whether rich or poor, the opportunity of conferring upon their sons and daughters a thorough education.

"It may be pertinent to ask if it is best for the State to educate? Was it wise in those men of '39 and '58 to assume on the part of the State the burden of education? Would it not have been better to relegate the instruction of the young to individual effort, or to co-operative and individual efforts such as is put forth in all our States by the larger religious denominations? These are honest questions and they deserve a straightforward, honest answer. The question of State aid in education may be profitably divided. In the first place, is it best for the State to engage in the work of primary education? In the second place, is it best for the State to provide what is known as higher education? So far as the first question is concerned, the time has gone by when it was necessary to discuss it. Only two classes of people now openly oppose free schools. One class oppose them on the ground that they, the opposers, have no children, or they prefer to pay for the education of their children, and therefore it is intrinsically unjust to tax them to educate other people's children; forgetting that they are liable to be much more heavily taxed to punish other people's children. The other class oppose free schools on the ground that the establishment of a system of common schools is an exercise of a supervisory right more consistent with a parental right than

with a republican form of government; forgetting that the same objection lies against asylums, hospitals and the guardianship of wards by courts of chancery.

"The principles that are cited in support of free schools are generally two: economy and safety. The education of the child is cheaper than the punishment of the criminal; and, where every man votes, the safety of the State demands intelligence in the voter. I believe there is a third principle which may be adduced in support of free schools, more fundamental than either of these. I believe the State or organized society owes the child a primary education, in consideration of the demands liable to be made upon him as a citizen. It is not necessary to elaborate these propositions. Free schools have come to stay, and the man who opposes them writes himself a relic of an antediluvian world which the flood of public opinion has long ago swept away. The second question is as follows: Is it not better to relegate higher instruction to individual effort, or more especially to the cumulative effort of the several religious denominations? Is it, strictly speaking, in keeping with the legitimate functions of State to provide a University where young men and women can be taught free of charge Latin, Greek, French, mathematics and the sciences? To the last form of this question many people answer "no;" and it is proper to state, as briefly as the case will admit, the opinion of those of us who think otherwise.

"I take it that the true purpose of government is to do for the equal benefit of all, such things as can be better done by organized society than by individuals. There are two tests, then, by which to judge of the legitimacy of State interference in higher education. First, can the work be better done? Second, can the equal benefit of all be secured only through the agency of the State? If I can show that these questions must be answered in the affirmative, I shall have proved the proposition that the State should provide for the higher education of its young men and young women.

"In the first place, can the work be better done by the State than by individuals, or the several religious denominations? The relative excellence of the large in-

stitutions of learning now-a-days is largely a question of money. Universities of the first class are costly things. Buildings, substantial and commodious, must be erected. Apparatus and laboratories and libraries must be equipped and kept constantly abreast with the times. Faculties for all the great departments of human learning must be organized and constantly widened to keep pace with the growth of human investigation and research. To meet the large expenditures necessary by these features of a university, and, at the same time, not to bear too heavily on the part of the community, is a problem to be solved. It will not do to depend on individual effort. Now and then an individual, as Sanford of California or Johns Hopkins of Maryland, leaves his fortune to found a university, but these are isolated cases. Such gifts are seldom made, and when made are often hampered with conditions and limited by restrictions. It will not do to depend on the efforts of the religious denominations. Experience has abundantly shown that they are not able, or not willing, to endow their institutions as they should be endowed. If the report of the commissioner of Education at Washington is to be relied upon, there are 289 sectarian schools in the United States ranking as high as colleges and universities—190 in the Northern States and 99 in the Southern States. Out of the entire 289 only 13 have an income of over \$30,000. Of the 99 sectarian colleges and universities of the South only one has an income of over \$20,000. On the other hand, the State universities are generously supported. The University of Virginia has in round numbers an income of \$90,000; University of California, \$102,000; University of Pennsylvania, \$120,000; University of Michigan, \$140,000, and Cornell University, \$200,000. If the excellence of a University is largely a question of money, it is evident that these several States are now doing better work in higher education than the religious denominations. The same conclusion would be reached by a comparison of the number of professors and students, size and character of the libraries, and the equipment and products of the laboratories. But this is unnecessary. It remains to-day as the Congress of the

Republic of Texas foresaw forty-eight years ago, and if the people of Texas want their sons to have a thorough education they must equip and sustain a State University. This has been partially done, and in the near future it can, with the help of the friends of higher learning in the State, be wholly done. Already the available income of the University is \$44,000. This is independent of any appreciable income from its unsold lands. With favorable legislation these lands can be made to produce an additional income of from \$80,000 to \$100,000, and the University will then be able to take its place in the ranks of the really great institutions of the country.

"In the second place, can the equal educational benefit of all be secured only through the agency of the State? It certainly cannot through the agency of the religious denominations, because they confessedly build their colleges and universities primarily, as is perfectly right and proper, for their own benefit, not for the benefit of all. The board of trust of a college or university founded by a particular religious denomination is made up, as it should be, of men of that denomination, and the professors, so far as possible are, as they should be, selected from that denomination. Sectarianism may not be taught, but the atmosphere of the institution is Catholic, Methodist or Baptist, as the case may be. Evidently the equal education of all cannot be secured at such a university, for the simple reason that the majority of the people of the State generally differ in religious opinion with the founders of any particular denominational institution. This majority either want their children educated in no sectarian atmosphere, or the believer in each separate creed wants an atmosphere of his own. It remains, therefore, that no matter how many sectarian universities we may have, or how well they may be endowed, the only agency by which equal educational advantages can be secured to all is the State; and the men of '39 and '58 were wise in providing for the establishment of a University where the sons of the State might receive an unbiased thorough education.

"What did those men of '39 and '58 mean by a Uni-

versity? What kind of an institution did the framers of the constitution of '76 have in mind when they declared that the University of Texas should be "of the first class."

"I am inclined to think that there is in the minds of many people a misapprehension in regard to the nature of a university. Perhaps it would be more correct to say that there is a certain lack of apprehension as to what constitutes the defining of an American University. This is not altogether the fault of the people. The term university has been and is applied by Americans to so many grades of institutions of learning, and has been assumed by so many different kinds of schools, that it has long ceased to convey any clear and distinct meaning. The consequence of this is that a really useful word has, in the literature of education, become almost hopelessly confused.

"Many people speak of a university as if it was, or should be, a school distinguished by the number of its pupils, and the size of its graduating classes. According to this characterization there is a normal school at Lebanon, Ohio, which should be the University of America, for it has, I believe, nearly two thousand pupils, and graduates its classes every six weeks. Others think the test of a university is by advancement of the students who are admitted to its classes. They have in their mind a stair-step arrangement up which the student must pass before he enters the university—the primary school, the high school, and the college. Their favorite expression is, "A real university admits only college students." It does not disturb the advocates of this theory that such a test would exclude from the list of universities Harvard and Yale and Princeton and Johns Hopkins. "Well," they say, "this proves that they are not real universities." "The American university is yet to come," etc. Of late years there has been another test of a university made public and proclaimed with all the enthusiasm of a new discovery. "That institution," it is said, "is a university where original research is carried on; where investigation and discovery go hand in hand; where learned men devote their time and talent to experi-

ment and invention." If research is the test of a university, and if its efficiency is to be measured by the means afforded for original investigation, then the American university, in its most perfect development, is to be found in the shops of Thomas Edison at Menlo Park, at the Bessemer Steel Works, or in the offices of the Western Union Telegraph Company.

"I take it the real University should be judged more by the scope and reach of its instruction than by the number of its students or the size of its graduating classes; that it should be tested more by the character and attainments of those it sends out into the world than by the age and advancement of those it admits into its lecture rooms; and that the ability of its students to make original investigations in literature, in science and art, is a better evidence of its efficacy as a University than the contributions in the same line by members of its faculty. In our efforts to get a clear conception of the University we must never lose sight of the fact that it is essentially and emphatically a school. It is a place where the main object is, not to accumulate vast libraries, not to store away the treasures of art, nor to provide laboratories where learned professors in retired leisure can make original research into "nature's infinite book of secrecy." These are all praiseworthy objects and must always be kept in view, but they are secondary objects. The primary object of the University is to teach, to train the human intellect, to cultivate the finer instincts and to develop the higher nature of men and women. In the words of the preamble of the act of 1858, the object of the University is "to place within the reach of our people whether rich or poor, the opportunity of conferring upon their sons and daughters a thorough education."

° * * I do not wish to be understood as underrating the importance and value of original work by University professors, but I wish to emphasize the fact that original work is not the only or the chief part of a professor's duty. His main duty is to teach, not to discover; to train investigators, not necessarily to be one. The two, however, are not incompatible. It was my good fortune to attend the lectures of Louis Agassiz,

and I can bear witness to his wonderful skill as a teacher as well as to his great genius in the discovery and promulgation of new truths. Original investigators, inventors and writers, who at the same time are not teachers, have a place in the world, a high and honorable place, but that place is not a professor's chair in a University. Likewise experimental stations, where the main end in view is original investigation, are useful institutions; but they are not universities.

"I take it that the ideal American university is, or should be, a great school differing from other schools mainly in the facilities it possesses of imparting instruction and the extent to which this instruction can be carried in all the departments of human learning. These facilities should consist primarily of a faculty so numerous and selected and assigned that each member can make himself, relatively speaking, master of the subject he is expected to teach, and these subjects to be taught, should be so multiplied and so divided and so grouped that they should together exhaust as far as possible the entire field of human knowledge, and yet afford a student the possibility of taking a well defined course, complete in itself upon a variety of lines, each of which leads in a reasonable time, to a well recognized standard of mental training. As an indication of what has been done towards supplying this requisite of a university's equipment, I beg to call attention to the catalogue of Harvard University for 1886-87. This shows that there are now in that great school more than two hundred teachers and officers, and that in the college proper, or the academical department, there are 220 courses of study, falling in twenty-two groups.

"On the 28th day of October of the past year, amid the shouts of men, the blasts of horns, and the boom of cannon, a colossal statue was unveiled in New York harbor. There it stands with uplifted torch, a majestic symbol of Liberty enlightening the world. It is an imposing monument, worth, on account of the sentiment it emphasizes, perhaps, all it cost. But how much grander was the monument erected by the burghers of Leyden! How much nobler in its conception, and in its purpose is the beacon erected by the fathers of Texas.

and whose fires have been so lately kindled! Let the friends of learning and morality see to it that at these fires it shall always be possible for any young man to light a torch 'that may flash from uplifted hand to hand along the generations,' enlightening the world with the light of truth and knowledge."

[Address of Judge McLeary.]

Hon. J. H. McLeary of San Antonio, formerly Attorney General of Texas, in a beautiful address at the University commencement June, 1890, on the subject of "The Utility of University Education," thus forcibly alludes to the purposes of the institution:

"The day is at hand when a university of the first class, such as is demanded by the constitution and laws of Texas, must be a federation of colleges or schools, each devoted to some peculiar method of mental discipline, some special department of learning, or some technical or professional art or science. Something like this seems to me to be the true idea of a great university. Let the union be strong enough to bind the several parts together in one common purpose and under a single management, but let the schools or colleges each pursue its own methods and strive in its own way to accomplish its special purpose.

"The purpose of education is not to store the mind like a vault with the golden treasures of truth or the sparkling gems of wisdom, but to perfect and brighten by culture, exercise, and discipline that ray of the supreme intelligence, that atom of the divine essence, which we presume to call the intellect or soul of man. When the wings of our immortality are stretched forth towards heaven how can we fetter them with the sordid cares of earth and chain down the eagle which fain would seek the sun? Such of us as have a proper sense of the position which God has assigned to the human race in the marvelous scheme of the universe, cannot fail to appreciate the supreme importance of thorough intellectual culture and discipline. The mind is not a trap to catch facts and figures found running at large in books or escaping from the lips of learned men in lectures, but it is a bow, a rifle, a needle gun,

or a gigantic cannon with which to accomplish the greatest miracles which hunters or warriors ever yet have dreamed of; or rather it is a harp or an organ, from which, when fully brought to perfection by use and training, the fingers of Deity shall draw forth music worthy to echo and reverberate throughout the universe, and to accompany the song which the morning stars sang together at creation's dawn.

"In this iron age the university should be the great intellectual gymnasium where the best and brightest minds in every country are congregated and trained and disciplined in every faculty, until each has attained its highest capacity of intellectual vigor. The university is no longer a fountain from which to quaff the Pierian draught of learning, but an arena in which the athlete wrestles, hurls the discus or the javelin, leaps or runs the race, or contends in the grand pentathlon, where success gives to the strongest and most active mind the olive crown of victory. So in the great bivouac of life. The hero armed cap-a-pie, with all the advantages of a thorough university education, takes his self-made antagonist at long range, with a repeating rifle of the latest improved pattern, and victory is only a question of distance and bullets. This is true of every occupation, the law as well as surgery, architecture as well as agriculture, commerce as well as manufacturing. The man or woman with the best disciplined mind, with the best filled magazine of facts and figures, must prevail whenever two or more are brought into active competition. Then it behooves every young man, and every young woman, too, to arm for the conflict. If mere bread-winning is your lowly aim, even in that you will realize a great advantage by having the highest education possible to attain. A difference in natural talents will of course do much to equalize in some cases the disadvantages to be suffered from want of discipline and culture; but suppose that the superior talents are on the same side with the better education, where will the unfortunate self made, half-educated contestant appear on such a battlefield? Whether or not it is true, in the language of the old aphorism, that 'knowledge is power,' no one can doubt

that knowledge is a means of power. If we but properly use the means the end can be attained, and success will surely follow; and with success comes happiness; so that 'Finis coronat opus.'

"In this age of steel and electricity, this peculiarly practical age, there seems to be an idea abroad that the State has no need of highly educated men, much less of educated women. Even among the trustees and regents of colleges and universities we find men agreeing with the sentiment of Fouquier-Tinville, the notorious purveyor of the guillotine, "*La Republique n'a pas besoin de savants.*" Sometimes men like this get into the Texas Legislature and immediately begin to court popularity among the ignorant by an attack upon the University. To such we might point out the source of England's greatness, in the culture which finds its home in Oxford and Cambridge, and to the glorious history of France, which has ever fostered its universities since the days of Philip Augustus, who forever freed the University of Paris from political control, and patronized the University of Montpellier, which has recently celebrated its seventh hundredth anniversary. And if this higher culture is of such incalculable benefit in the old countries of Europe, how much more important is it here on this new continent, where liberty has its permanent abiding place. In every free state it is the highly educated who are the most watchful guardians of the people's rights. From the watch towers of the universities are sounded the alarm bells to warn the people of the encroachments of despotic power. John Hampden, the intrepid defender of English liberty, was an Oxford scholar, and doubtless there imbibed the patriotic principles for which he, too soon for England's greatness, offered up his life on the battlefield. And even now in Spain, the most celebrated scholar and orator of that country, the great Castelar, is the most unflinching patriot, and publicly in the Cortes, under the very shadow of the throne, avows himself a republican. Every student in every land should wish him success in founding a Spanish republic. George Washington and Thomas Jefferson both founded and fostered, in their native State of Vir-

ginia, institutions of learning intended to promote the highest education; and at this day Washington and Lee University and the University of Virginia are among the grandest monuments ever erected to their genius and their patriotism.

"If this University is to be what the fathers of the Republic designed it to be, no expese should be spared to secure for every chair the ablest instructor who can anywhere be found, eminent for his special merit in the department over which he is called to preside. The inadequate salaries fixed by time-serving politicians, for the highest offices of the State should not be regarded as a limit beyond which the regents could not pass in fixing the compensation of the learned men who now do and are hereafter to adorn this institution with their wisdom. The past history, the greatness, and the future grandeur of Texas all demand that this University shall be made the equal of the very best institutions on either continent. Without disparagement to Yale or Harvard, Oxford or Cambridge, Leipsic or Montpelier, Texas should make our own University, in the present generation, 'facile princeps.'"

POSTHUMOUS PHILANTHROPY.

The propriety of donations being put into operation while the donors are living, rather than leave them to post mortem execution, is strongly presented in the following editorial article from the St. Louis Globe-Democrat:

"In his last will and testament Benjamin Franklin bequeathed to the cities of Boston and Philadelphia £1000 each, to be invested for a period of a hundred years, and then to be used in helping deserving young men to start in business. He calculated that the reinvestment of the income from these sums would swell them in a century to over \$1,000,000; thus providing a fund that would be a source of practical advantage to a large number of persons having good claims to such assistance. It was a scheme that did honor to the great philosopher and statesman, who had himself experienced the difficulty from which he thus sought to save others; but it has not turned out as he expected. At the end

of the appointed time the fund amounts to only one-half as much as he anticipated; and now his descendants claim the money on the ground that the terms of the will have not been strictly complied with and the gifts are therefore void. The matter has already been presented to the proper courts, and a long course of litigation will follow. Several intricate and important questions are involved in the case. The will is written in plain terms, but the intervening century has affected its provisions to a considerable extent, and its validity becomes a question to be determined under conditions and according to tests of which Franklin took no account. Very likely the final result will be the defeat of the testator's object, and the money will go to those for whom it was never intended.

"This only adds another to the long list of such miscarriages of benevolence. It is the rule rather than the exception that bequests made for philanthropic purposes, to take effect at some future time, are contested and declared void on some technical plea. The most skillful lawyer, it seems, cannot frame a will so well that the courts shall be bound to respect and enforce it. Even Samuel J. Tilden was unable to do so in the case of his own property; and there are other instances in plenty to prove that there is always a vulnerable point in such documents. The lesson that these contests teach is one that men of wealth who have philanthropic impulses should carefully study. It is to the effect that gifts should be made while the giver is alive to see that they are properly applied. There is no reason why a man should withhold his benefactions until after his death. The intended good can just as well be done at an earlier date, thereby avoiding all danger of dispute or failure."

The following editorial, from the San Antonio Express, forcibly presents the same subject:

"If the annulment of the will of Mr. Tilden, creating a trust fund and trustee administration for a great public library, is sustained by the court of appeals of New York, the public will be deprived of the benefits of a noble charity.

"The case teaches a lesson to those who lay up treas-

ures on earth under the impression that they are laying 'up treasures in heaven' by founding a charity with funds which they cannot take away with them. It would have been easy for Mr. Tilden, with his large fortune, to have founded such a library during his life time, and to have put it into successful operation under proper management. Then he could have made bequests, and the corporation have taken from others donations and bequests. Such an act would have been the fitting consummation of a life full of years and honor.

"One of the longest and most costly litigations reported is that of Mr. McDonough of New Orleans. He was reported to be a man of enormous wealth. He never made for himself a home. He was abstemious, even penurious. He gave away nothing and formed no friendships. After his death it was ascertained by his will that during all of his years of self-denial and isolation from his fellow men it had been the one purpose of his life to accumulate large wealth with which to establish schools for the education of children in Baltimore and New Orleans after his death. Much of the estate was frittered away in almost interminable law suits, under bad management. What was recovered by the public schools has dwindled away to a sum insignificant as compared with the original value of the bequest.

"It would have been better for them and for posterity if Tilden and McDonough could have had before them the examples of Mr. Vanderbilt, who endowed the Vanderbilt University at Nashville, and of Mr. Tulane, who endowed the Tulane University at New Orleans. During their lives, while they were able to organize and direct, they laid the foundations of two permanent charities which will be lasting monuments to their philanthropy, and which they saw arise upon a sure basis with the approbation of men. Such monuments are more grandly commemorative than tombstones or epitaphs, or than the posthumous donations which represent the wealth that the owners gave only when they could not carry it away, and left to all the chances of litigation."

MILLIONS IN EDUCATIONAL BEQUESTS.

NEW YORK, December 8, 1890.—The will of Daniel B. Fairweather, the millionaire leather dealer, which was filed to-day, gives \$2,100,000 to different colleges and \$95,000 to hospitals. The will was made on October 6, 1880, and has four codicils. The testator died on November 15, 1890. The executors are Justus L. Buckley, Henry B. Vaughan and Thomas B. Rich. The following bequests were made: Yale College, for Sheffield Scientific school, \$300,000; Columbia College, \$200,000; Cornell University, \$200,000; Bowdoin College, \$100,000; Amherst College, \$100,000; Williams College, \$100,000; Dartmouth College, \$100,000; Wesleyan University, \$100,000; Hamilton College, \$100,000; University of Rochester, \$100,000; Lincoln University, \$100,000; University of Virginia, \$100,000; Hampton University, \$100,000; Marysville College, \$100,000; Union Theological Seminary and endowment of cadetships, \$50,000; Lafayette College, \$50,000; Marietta College, \$50,000; Adelbert College, \$50,000; Wabash College, \$50,000; Pach College, \$50,000.

The residue of his estate, which was also to have gone to these colleges pro rata, is changed by a codicil so that it is given absolutely to the executors and their heirs and assigns. The hospitals given bequests are all in this city.

NEW YORK, January 8, 1891.—There has been talk about a contest of the will of the late Elizabeth P. Fogg of this city, who, it is said, has left one of her three millions to colleges and charities. The old lady was, so her acquaintances say, somewhat eccentric. On one occasion she gave two persons proxies to represent her at a meeting of the stockholders in a company in which she was interested, and her eccentricity was shown in various other ways. One of the heirs said to-day, though, that a contest was improbable. According to a friend of the family, who has seen the will, Mrs. Fogg makes a cousin of hers the principal legatee, and leaves the greater part of the residue of her estate to certain leading universities and charities. Mrs. Fogg lived in a suburb of Boston prior to her marriage, and, it is presumed, became interested in

Harvard College. Anyway, in her will she leaves about \$260,000 to Harvard and something like \$100,000 to Yale. It is said that an acquaintanceship of long standing with Mrs. Timothy Dwight, wife of the President of Yale, led to the latter legacy. The rest of the \$1,000,000 devised by Mrs. Fogg to charitable and educational institutions does not, it is said, include much for religious organizations. Mrs. Fogg was a Unitarian. The town of Berwick, Me., from which came her husband, the late Wm. H. Fogg, is, it is said, remembered, and so are institutions in which Mr. Fogg was interested. About ten days prior to her death Mrs. Fogg made a codicil to her will, by which various local charities would have been benefited to the extent of \$200,000. Unfortunately for the charities in question, the law of this State makes void any codicil of this kind drawn less than thirty days before the death of the testator.—[Cor. St. Louis Republic.

DEATH OF HON. ASHBEL SMITH.

At the first meeting after the appointment of the Board of Regents of the University, which was held at Austin, November 14, 1881, Dr. Ashbel Smith was unanimously elected president of the board, and continued to serve in that responsible capacity till the day of his death, January 21, 1886, which occurred at his home near the city of Houston. Under the action of the regents and the State authorities, his remains were brought to Austin and interred the next day with high civic and military honors in the State cemetery, the funeral procession being one of the largest and most imposing ever witnessed at the State capital. The following references to his death and services are taken from the regent's report:

"The University in a large measure owes its present degree of prosperity to Dr. Smith's unwearied exertions and never flagging interest, and to his enthusiasm for classical learning and his abiding faith in liberal education. In recognition of his eminent services the Board of Regents unanimously adopted the following resolutions:

"UNIVERSITY OF TEXAS, January 29, 1886.

"Whereas, In the fullness of his years and in the

ripeness of his wisdom and experience our beloved and venerable president, Hon. Ashbel Smith, has been called to his eternal rest and reward; and

"Whereas, In his death we recognize that not only our University, but our State, has sustained a great if not irreparable loss; thereupon resolved:

"1. It is impossible within the scope of these resolutions to do justice to the faithful and distinguished services of Ashbel Smith rendered to Texas since the foundation of her government—as soldier in the war for independence, as her minister to foreign countries, as legislator and as citizen—their record will be found upon the illustrious pages of her history.

"2. He was one of those who incorporated the University, and the energies and wisdom of his last years were devoted almost exclusively to the organization and successful inauguration of our University—in the welfare of which we can truly say he took a deeper pride and interest than any other citizen of Texas; and the present prosperity and success of the institution is largely due to his disinterested and noble efforts. Indeed it may well be said of him that he was, so far as the practical inauguration of the institution is concerned, the 'father of the University of Texas.'

"3. He was permitted and blessed with life to see for three years the fruition of his patriotic ambition in looking forward to a Texas University of the first class; and far better and more enduring than marble or brazen shaft, this University will always stand as a monument to the high and noble aims of Ashbel Smith."

The faculty of the University, on the twenty-second of January, 1886, met in their room and took the following action:

"January 22, 1886.

"Pursuant to adjournment, the faculty assembled at 4 o'clock p. m. Present, Dr. Waggener, chairman of the faculty, and Professors Everhart, Macfarlane, Tallichet, Humphreys, Gould, Roberts, Dabney, Halsted, Lane, and Instructors Garrison and Gompertz. Also, Regent T. D. Wooten; A. P. Wooldridge, secretary of the Board of Regents; Gen. H. P. Bee; General Roberts, representing Adjutant General King for the State; and,

as a committee to represent the students, Messrs. A. A. Little, J. L. Storey, P. B. Bailey, H. K. White and W. H. Younger.

"The following report of the committee on resolutions (Professors Roberts, Dabney and Waggener) was unanimously adopted:

"Whereas, The members of the faculty have been informed of the death of Colonel Ashbel Smith, president of the Board of Regents of the University of Texas from its organization to the date of his death, on the twenty-first of January, 1886, which is to them the cause of serious regret and sorrow.

"Whereas, Colonel Smith, had been, for nearly half a century, a distinguished citizen of Texas, ever ready to promote her best interests with signal ability and disinterested patriotism in the many responsible positions which he has occupied, as a learned physician, as Minister to the Courts of England and France from the Republic of Texas, in a most important period of its history, as a legislator in the councils of his State, as a soldier in the service of his country, as an erudite scholar and promoter of education, as a man of high sense of honor and exalted principles in thought and action, ever philanthropic in his efforts to elevate the society in which his destiny was cast, setting the rare example of a life-time of work for the public good, without seeking its merited return in high offices of honor or profit.

"Whereas, His diversified learning, his devotion to the higher education and his extensive information in regard to the colleges and universities of Europe and America pre-eminently fitted him for the presidency of of the Board of Regents of the University of this State, to which position he has given his almost constant attention, well directed efforts and great influence, which, by the co-operation of his associates in the regency, have placed the University from its origin upon a high standard, and made it practicable for this institution to become what the State in its constitution has ordained it shall be—"a University of the first class;" therefore, be it

"*Resolved*, That in the death of Colonel Ashbel Smith

the State has lost one of its most distinguished citizens; education one of its most intelligent votaries; society one of its most urbane and high-toned Christian gentleman; science one of its earnest workers; humanity a good man and true among his fellows, and the University of Texas one of its earliest, most ardent and devoted benefactors, whose useful labors for its benefit, and whose thoughtful and courteous demeanor towards the members of the faculty will ever be held in most grateful remembrance by them.

"At the last commencement, June 14, 1886, Dr. A. G. Clopton of Jefferson, Texas, by request of the regents and faculty, delivered a memorial address on the life and character of Ashbel Smith. This eloquent address has been published* and it is hoped that in this way the regents have contributed towards perpetuating the memory of a good and great man; and it is hoped that the youth of the State will copy the example and follow in the footsteps of one whose last years were spent in building up a University for them.

"Respectfully submitted,

"T. D. WOOTEN,

"President Board of Regents."

Dr. Smith was born in Hartford, Conn., August 13, 1806, and was graduated from Yale College in the academic department in 1824. He subsequently practiced law in Salisbury, N. C., but returned to Yale and graduated in the medical department. He extended his studies in surgery in France, and practiced medicine several years in Salisbury. He never married.

In June, 1837, he arrived in Texas and was soon after appointed Surgeon General in the Texan army. In December, 1838, he resumed the practice of medicine in Galveston. In February, 1842, President Houston appointed him Minister to Great Britain. In 1845 he was appointed Secretary of State by President Jones. He served in the army of Gen. Taylor in Mexico, and was Colonel of a regiment in the Confederate war. He was in 1882 President of the State Medical Association, and had served several sessions as a mem-

*The address was published in pamphlet form by the University regents, and subsequently in the University catalogue.

ber of the State Legislature prior to his appointment as a member of the Board of University Regents.

The crowning aim of Ashbel Smith was to promote the success of The University of Texas.

NOTE.

As the University is comparatively still in its infancy, the writer has not cared to criticise its operations more freely or notice complaints of mere personal nature as to members of the faculty, all of whom are certainly earnest in their work and devoted to the interests of the University. Such complaints never fail to exist in the history of educational institutions, and especially as to State universities, which as public beneficiaries, are naturally subject to the severest scrutiny, and often most unreasonable censure. Some of them relate to controversies with the press and the public, as to lectures and published articles of some of the professors, which may be noticed by the writer in another volume, but are more likely to be left to the attention of other chroniclers.

Among the minor incidents of pleasing note in the history of the institution was a beautiful poem by Mrs. Clark, wife of Captain Clark, and assistant in his duties as proctor, which was read by that very accomplished lady, and constituted an interesting feature of one of the University commencements.

Acknowledgments are due to Major H. M. Holmes, Private Secretary of Governor Ross; Hon. J. M. Moore, Secretary of State; Hon. L. L. Foster, Commissioner of History and Statistics; Hon. O. H. Cooper, Superintendent of Public Instruction; Capt. James P. Clark, the University Proctor, and Hon. A. P. Wooldridge, Secretary of the University Regents, for access to official records. Also to Messrs. Butts, Calloway, Spain and Miss Lizzie Brannin, clerks in the State Department; Messrs. Dixon, Dodge, Hollingsworth, McGuire and Miss Elizabeth Brewster of Commissioner Foster's office; and Messrs. Cooper, Clopton, Carruth and Thweatt of the Department of Education, and Messrs. John M. Romagny and M. H. Warner, of Galveston, for special attentions.

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1. Acts of Congress, the Constitution and messages of the Presidents, and other records of the Republic of Texas.
2. Acts of the Legislature, State Constitutions and Journals of the Legislature and State Conventions, Governors' Messages, Reports of State Officers, and other documents published by the State.
3. Acts of the Legislature enacting and amending the General Laws of the State governing the sale or lease of School and University lands.
4. Acts of General Appropriations, including appropriations for the University and for its branches, and special acts of the Legislature for the same purpose.
5. Decisions of the United States Courts in Texas, and of the State Supreme Court, affecting University Lands or other interests of the University.
6. Digests of Laws of Texas, by Hartley, Paschal, Sayle, Posey, Odom & Williams, and other compilers.
7. Reports of the University Regents, Faculty Reports, Catalogues, Circulars, Addresses, Bulletins, etc., published by the University authorities, and Magazines published by the University students.
8. Reports of the State Comptroller, specially on the "University Fund."
9. Reports of State Land Commissioner and State Land Board on "University Lands."
10. Reports of State Superintendent of Instruction and State Board of Education, and Texas School Journals.

No history of The University of Texas has been heretofore written, and it is barely referred to in any published history of the State.

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